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THE
EDINBURGH REVIEW,
OCTOBER, 1821.

N^o. LXXI.

ART. I. *Memoirs of the Affairs of Scotland, from the Restoration of Charles II.* By SIR GEORGE MACKENZIE of Rosehaugh, Knight. Edinburgh, 1821.

FOR this curious fragment of Scottish History, we are indebted to Mr Thomson, whose zeal and assiduity in the preservation of the public muniments of Scotland, are pretty generally known to his countrymen, and who, amidst more arduous labours, has been able to give us this very accurate publication;—although it were to have been wished that his other avocations had permitted him to bestow on it some of that collateral illustration, of which the genuine sources are so peculiarly under his command. His edition of the Acts of the Parliaments of Scotland is a more accurate, complete, and splendid publication of the proceedings of a national legislature, than any other country in Europe possesses. We look with anxiety for the preliminary volume of that noble collection, in which the constitutional antiquaries of all other countries, as well as those of Scotland, may expect to find all attainable satisfaction respecting the constitution of our ancient government, and the progress of our early legislation. He has related, in the Preface to the present volume, the singular circumstances in which the MS. was rescued from destruction. The works of Sir George Mackenzie had been published at Edinburgh, in two volumes folio, in 1716 and 1722. In the second volume appears the following advertisement.

Advertisement. Whereas, in the list of the author's manuscripts, there is mention made of an History of the Affairs of Scotland from the Restauration of King Charles II., 1660, to the * 1691, which

* It is somewhat curious to find this Scotticism, still frequent in speaking, used in a learned work. In 1722, many Scotchmen, and
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subscribers might have readily looked for in this second volume; but that manuscript being in the hands of some of the author's relations, who think it not ready for the press until it be carefully revised, they have reckoned it more proper to have it printed by way of Appendix to this second volume, howsoon they have it revised and transcribed by a good hand.'

For many years, the History thus announced was supposed to have been either suffered to perish, or to have been intentionally destroyed. The second Earl of Bute, who supported the government of the House of Hanover, and had married the sister of John Duke of Argyll, the celebrated leader of the Whig party in Scotland, enjoyed, in the year 1722, the estates of Sir George Mackenzie, and probably possessed his papers. It was not unnatural that he should be suspected, at that juncture, of suppressing such a manuscript, more especially as his family, by conforming to the Revolution, and accepting a title from Anne, had rendered themselves peculiarly obnoxious to the adherents of the House of Stuart. Whatever might have been the plausibility of these conjectures, they have been, in part at least, proved to be false, by the discovery of the present manuscript. In the year 1817, a large mass of papers was sold to a shopkeeper in Edinburgh. From these, his curiosity induced him to select a manuscript volume, which appeared to him to be something of an historical nature; and, by another and equal piece of good fortune, he communicated this volume to Dr M'Crie, the well known author of the *Lives of Knox* and of *Melville*. On examining this volume, Dr M'Crie discovered that it was the composition of Sir George Mackenzie, and that it must be a portion of that history of his own times, which had been so long a desideratum in Scottish literature. Of this the intrinsic evidence was obvious and complete; and the manuscript, though written by one of the ordinary transcribers of that age, was decisively identified by numerous corrections and additions in the well known handwriting of Sir George Mackenzie himself.

Sir George Mackenzie, the author of these *Memoirs*, was the grandson of Kenneth, first Lord Mackenzie of Kintail, and the nephew of Colin and George, first and second Earls of Seaforth. He was born at Dundee in 1636; and, after passing through the usual course of education in his own country, he was sent for three years to the University of Bourges, at that

all Jacobites, refused to acknowledge that their dialect was not a national language. The omission of the substantive 'year' between the article and the numeral, is peculiar to Scotland.

time, as he tells us, called 'the Athens of Lawyers.' The Scotch lawyers, who had no sufficient means of instruction in the Roman law at home, were then accustomed to frequent the University of Bourges, as in later times they usually repaired to Utrecht and Leyden. He was called to the Bar, and began to practise before the Restoration; and, in a sketch of an eminent advocate, has given us a picture (probably heightened by party spirit) of the canting tone which courts then adopted, and to which the most learned advocates were obliged to conform.*

Immediately after the Restoration, he was appointed one of the Justices-Depute,—criminal judges who exercised that jurisdiction, which was soon after vested in five Lords of Session, under the denomination of Commissioners of Justiciary. In 1661, he and his colleagues were, in Parliament 'ordained to repair, once in the week at least, to Mussellburgh and Dalkeith, and to try and judge such persons as are ther or therabouts dilate of witchcraft;' so much more urgent did the Scotch Parliament then deem the punishment of that offence than of any other crime. His name appears in the Parliamentary proceedings as counsel in almost every important cause; and his connexion in that character with the Marquis of Argyll, gives no small importance to a passage which will be presently considered in the present Memoirs, respecting a circumstance in the trial of that Nobleman, which has been the subject of much historical controversy. Between 1663 and 1667, he was knighted. He represented the county of Ross for the four Sessions of the Parliament which was called in 1669. In 1677 he was appointed Lord Advocate, in the room of Sir John Nisbet, who, if we may believe Mackenzie himself, was 'a person of deep and universal learning;'† and of whom, in another place, he says, that 'in the conduct of causes he displayed the greatest learning and consummate eloquence.'‡ By that preference he was, most unhappily for his character, involved in the worst acts of the Scotch administration of Charles II.; a system of misgovernment which has only one parallel in the Eu-

* 'Nicholsonus junior eloquio usus est fanatico non Romano; et hinc concionabatur potius quam orabat: documentum posteris futuris, illud ad persuadendum aptius quod seculo, licet sordido, et iudicibus, licet hebetioribus placet. Si autem doctus hic Orationes Posteris transmisisset, Augusti seculum (illi notissimum) imitatus fuisset.' —Charac. quorundam ap. Scot. Advocat.'

† Mem. 324.

‡ Char. Advoc. 'Qui summâ doctrinâ consummatâque eloquentiâ causas agebat.'

ropean territories of the British empire. Having betrayed some repugnance to concur in those measures which openly and directly led to the establishment of Popery, he was removed from his office in 1686,—but reinstated in February 1688, when such measures were still more avowedly carried on. At the Revolution, he adhered to the fortunes of his master. Being elected a member of the Convention, he maintained the pretensions of James with courage and ability against Sir John Dalrymple and Sir James Montgomery, who were the most considerable speakers of the Revolutionary party; and, remaining in his place after the imprisonment of Balcarras and the escape of Dundee, he was one of the minority of five in the memorable division on the forfeiture of the Crown.* King William had before refused to accede to a proposal of some eager partisans for incapacitating Mackenzie and a few others from all public office,—agreeably to the maxims of that wise policy, which uniformly induced that illustrious monarch not to concur in those measures, even of the most just retribution, which in moments of violent change are apt to degenerate into proscription and revenge. It shows considerable firmness in Sir G. Mackenzie to have composed and delivered his inaugural speech on the foundation of the Library of the Faculty of Advocates, at so critical a moment as that in which the Crown† was placed on the head of a new King. When the death of Dundee destroyed the hopes of his party in Scotland, he took refuge at Oxford, the natural asylum of so learned and inveterate a Tory. Under the tolerant government of William, he appears, however, to have enjoyed his ample fortune (the fruit of his professional labours) with perfect comfort as well as security. In Evelyn's *Diary* of the 9th March 1690, we have the following account of the freedom of Sir George's conversation at the table of a Prelate, who was a zealous supporter of the new Government. 'I dined at the Bishop of St Asaph's, almoner to the new Queen, with the famous lawyer Sir G. Mackenzie (late Lord Advocate of Scotland), against whom both the Bishop and myself had written and published books, both now most friendly reconciled. He related to us many particulars of Scotland, *the present sad condition of it*, the inveterate hatred which the Presbyterians show to the family of the Stewarts, and the exceeding tyranny of those bigots, who acknowledge no superior on

* Balcarras Memoirs, MS.

† This oration was published at London in 1689, under the following title:—'*Oratio Inauguralis habita Edenburgi Id. Mar. 1689 a Dom. Georgeo Mackenzieo, de Structura Bibliothecæ pure Juridicæ,*' &c.

‘ earth in civil or divine matters, maintaining that the people
‘ only have the right of government, their implacable hatred
‘ to the Episcopal order and the Church of England. He ob-
‘ served, that the first presbyter dissents from our discipline
‘ were introduced by the Jesuits order about the twentieth of
‘ Queen Elizabeth; a famous Jesuit among them feigning him-
‘ self a Protestant, and who was the first who began to pray
‘ extempory, and brought in that which they since called, and
‘ are still so fond of—praying by the Spirit.’—*Evelyn Memoirs*,
II. 19. *

He was allowed to publish, while the censorship of the press still subsisted, a very inadequate Vindication of the Government of Scotland under Charles II. He died in St James's Street in May 1691; and his death is mentioned as that of an extraordinary person by several of those who recorded the events of their time, before the necrology of this country was so undistinguishing as it has now become. The pomp and splendour of his interment at Edinburgh, affords farther evidence how little the administration of William was disposed to discourage the funeral honours paid to his most inflexible opponents.

The writings of Sir George Mackenzie are literary, legal and political. His Miscellaneous Essays, both in prose and verse, may now be dispensed with, or laid aside, without difficulty. They have not vigour enough for long life. But if they be considered as the elegant amusements of a statesman and lawyer, who had little leisure for the cultivation of letters, they afford a striking proof of the variety of his accomplishments, and of the refinement of his taste. In several of his Moral Essays, both the subject and the manner betray an imitation of Cowley, who was at that moment beginning the reformation of English style. Sir George Mackenzie was probably tempted, by the example of this great master, to write in praise of Solitude: and Evelyn answered by a panegyric on Active life. It seems singular that Mackenzie, plunged in the harshest labours of ambition, should be the advocate of retirement; and that Evelyn, comparatively a recluse, should have commended that mode of life which he did not chuse. Both works were, however, rhetorical exercises, in which a puerile ingenuity was employed on questions which admitted no answer, and were not therefore the subject of sincere opinion. Before we can decide whether a retired or a public life be best, we must ask—best for whom?

* It is needless to warn any readers against fictions so absurd. It is wonderful that Sir George did not represent John Knox as a disguised Jesuit.

If the meaning be, best *for all*, the absurdity of the question strikes the mind at the first glance*. If it be, best *for some*, we must be told who are the sorts and classes of men who are intended. The absurdity of these childish generalities, which exercised the wit of our forefathers, has indeed been long acknowledged. Perhaps posterity may discover, that many political questions which agitate our times, are precisely of the same nature; and that it would be almost as absurd to attempt the establishment of a Democracy in China, as the foundation of a Nobility in Connecticut. That Evelyn indeed did not believe his own book, we are assured by himself, in his letter to Cowley, 12th March 1666.—‘ You had reason to be astonished that I, who had so much celebrated recess, should become an advocate for the enemy. I conjure you to believe that I am still of the same mind, and that there is no person who can do more honour, and breathe more after the life and repose you so happily cultivate and advance by your example; but as those who praised dirt, a flea, or the gout, so have I public employment, and *that in so weak a style compared with my antagonists*, as by that alone it may appear that I neither was nor could be serious.’ The praise thus bestowed by so competent a judge as Evelyn, in a confidential letter to the greatest master of English prose then living, must be considered as a testimony of great weight to Mackenzie’s character as an English writer. He is not, it must be owned, exempt from Scotticisms; but he is perfectly free from those, perhaps, more disagreeable vices into which more celebrated Scotch writers have been betrayed, by a constant fear of Scotticism. He composes easily and freely; and his style is, that of a man who writes his native language. Neither he, nor Burnet, nor Fletcher, has any degree of that painful constraint, that demure stiffness, that constant air of dreading impropriety, which makes the writings of some Scotchmen of distinguished talent, in more modern times, like compositions in a dead language;—in which indeed they avoid Scotch, but at the same time sacrifice all that is living and idiomatic in English. They use no spoken language; and their style has therefore, in many places, the cold and dull stateliness of a diction timidly selected by a foreigner from books. It would be injustice to the memory of Mackenzie, not to mention the extraordinary praise bestowed on him by Dryden, the successor, but hardly the superior, of Cowley, in English prose. The praises of that great poet are indeed not always of equal importance; and it is unfortunately necessary to the value of the following commendation to say, that it was published in 1693, two years after the death of Sir George Mackenzie.

' Had I time, I could enlarge on the beautiful turns of words and thoughts, which are as requisite in this as in heroic poetry itself. With these beautiful turns I confess myself to have been unacquainted, till, about twenty years ago, in a conversation which I had with that noble wit of Scotland, Sir George Mackenzie, he asked me why I did not imitate in my verse the turns of Mr Waller and Sir John Denham, of which he repeated many to me. I had often read with pleasure, and with some profit, these two Fathers of our English poetry; * but had not seriously enough considered their beauties, which give the last perfection to their works. Some sprinklings of this sort I had also formerly in my Plays; but they were casual, and not designed. But this hint, thus seasonably given me, first made me sensible of my own wants, and brought me afterwards to seek for the supply of them in other English authors. I looked over the darling of my youth, the famous Cowley; †—there I found, instead of them, the points of wit and quirks of epigram; but no elegant turns, either on the word or on the thought. Then I consulted a greater genius, (without offence to the manes of that noble author), I mean Milton; but as he endeavours everywhere to express Homer, whose age had not arrived to that fineness, I found in him a true sublimity, lofty

* We must understand him to mean the authors of his own system of diction and metre.

† It has often been remarked that Dryden, in his earlier and less perfect works, betrayed many symptoms of a taste corrupted by the study of Cowley. But it has not been observed, that one of his noblest passages owes something to imitation of the same model.

' Happy the man, and happy he alone,
He who can call to-day his own,
He who, secure within, can say,
To-morrow do thy worst, for I have lived to-day.

' Be fair or foul, or rain or shine,
The joys I have possessed, in spite of fate, are mine;
Not Heav'n itself upon the past has power,
But what has been, has been, and I have had my hour.'

In 'The Epicure' of Cowley, the following couplet may be compared with the above passage.

' To-day is ours; what do we fear?
To-day is ours; we have it here.'

The same language is observable in one of his versions from Martial.

' To-morrow I will live, the Fool does say;
To-day itself's too late; the wise lived yesterday.'

If it should be said that, in the latter case, the language is suggested by the original, it cannot be denied that, in the former, Dryden has not only borrowed the turn of expression, but caught the fire from Cowley.

thoughts which were clothed with admirable Grecisms, and ancient words which he had been digging from the mines of Chaucer and Spencer, and which, with all their rusticity, had somewhat of venerable in them: but I found not there neither that for which I looked. At last I had recourse to his master, Spencer, the author of that immortal poem called the *Fairy Queen*, and there I met with that which I had been looking for so long in vain. Spencer had studied Virgil to as much advantage as Milton had done Homer.' ‡

We have been insensibly led to copy more of this passage than relates to Mackenzie, by the singular beauty of expression and occasional levity of critical judgment which distinguish it, and which render it no inadequate specimen of the general character of Dryden's miscellaneous writings. Without exaggerating the importance of the conversation to which it refers, we may consider it as an incident not without some influence on the literary habits of the poet; and we may venture to remark, that it was prior to the composition of any of those immortal works on which his fame will for ever rest.

Sir George Mackenzie is one of the few British advocates who have published their Speeches at Bar, which we in Scotland often call Pleadings, and which in England are called Arguments, when they are addressed to Judges on questions of law, and retain the general name of Speeches when they are addressed to a Jury, or to any other popular body. They show considerable knowledge, ingenuity, and address, and are never very defective, but in those passages which aim at eloquence. The speech before the Parliament for the Marquis of Argyll, handles the question—'Whether passive compliance in public rebellions be punishable as treason?'—with no small ability. He compares the herd of servile witnesses who flocked in to Court favour, by bearing testimony against a fallen statesman, to the Roman slaves, who, vying with each other in the indignities which they heaped on the dead body of Sejanus, called out '*Calceemus Cæsaris hostem!*'. The 'Eleventh Pleading' is against a most extravagant pretension of the Royal Burghs, who claimed an exclusive privilege to trade with foreigners. The Parliament determined that this monstrous monopoly was not warranted by law. The following passage of it is curious.

'I confess (may it please your Grace) that the erecting of societies, as to some trades and at some times, is necessary; but the ordinary rule extends there no further, than that trading to remote nations, and in rich commodities, should at first have some privileges as to their erections; for else private stocks would not be able to compass

‡ Dryden's Discourse on the Origin and Progress of Satire, prefixed to his *Juvenal*.

it: But even as to these, when the trade is once secured and becomes easy and manageable, then these privileges cease with the cause from which they had their origin. And therefore it is, that albeit trade with foreigners seemed at first above the reach of our first traders, when to sail to Spain seemed as hard as an India voyage now doth, yet now, when experience and increase of money has lessened these difficulties, I conceive the privileges should expire. It is known that the Bishop of Glasgow gave only his borough then liberty to trade into the shire of Argyll, and that the Burgh of Edinburgh had a special privilege of old to trade in the Isles.*

In his Preface to the Pleadings, he lays down a doctrine which will not be very acceptable to English readers.

‘It may seem a paradox to others, but to me it appears undeniable, that the Scottish idiom of the British tongue is more fit for pleading than either the English idiom or the French tongue; for certainly a pleader* must use a brisk, smart, and quick way of speaking; whereas the English, who are a grave nation, use a too slow and grave pronunciation, and the French a too soft and effeminate one. And therefore, I think the English is fit for haranguing, the French for complimenting, but the Scotch for pleading. Our conversation is like ourselves, fiery, abrupt, *sprightly*, and bold. Their greatest wits being employed at Court, have indeed enriched their language very much as to conversation; but all ours, bending themselves to study the law, the chief science in repute with us, hath much smoothed our language as to pleading. And when I compare our law with the law of England, I perceive that our law favours more pleading than theirs does; for their statutes and decisions are so full and authoritative, that scarce any case admits pleading, but (like an hare killed in the seat) it is immediately surprised by a decision or a statute. Nor can I enough admire why some of the wanton English undervalue so much our idiom, since that of our gentry differs little from theirs; nor do our commons speak so rudely as those of Yorkshire.’

All these speeches show a good sense, at that time rare, inasmuch as they are adapted to the real state of business in the age and country of the speaker, instead of being a puerile and frigid mimicry of ancient orations. And his characters of contemporary advocates, though, as no monuments of these lawyers are preserved, they are to us little more than portraits of imaginary persons, show that the author had the courage and understanding to think that modern speakers could deserve criticism; and that he was himself well employed in characterizing those men of eminent merit with whom he was familiarly conversant.

Mackenzie was the first person who treated the Criminal Law of

* A Scotticism. This word, in English, no longer denotes a public speaker. That sense is obsolete.

Scotland systematically; and perhaps the looseness and confusion which are imputed to this part of his writings, belong rather to the state of the subject, than to the fault of the writer. He introduced into the criminal law of his country one great reformation. 'Our law,' he says, 'allows the party accused a liberty to call in witnesses, who may depone for him upon oath against the King, which *the law of England does not*. And this kind of exculpation was never allowed in Scotland till the reign of King Charles II.; the first act, which was the warrant thereof, having been made by Sir John Cunningham and Sir George Mackenzie, when they were criminal Judges.' (*Mackenzie. Vind. of Ch. II. Gov. Works, II. 347.*) It is obvious that, till witnesses could be examined on oath for a prisoner, they could not, and ought not to be believed; and that it was a mere mockery of justice to allow parties accused the pretended privilege of producing discredited witnesses. Some of those undistinguishing panegyrist of the law of England, who are its worst enemies, may perhaps be so ignorant as not to know, that this deviation from the first and most sacred principles of criminal justice continued to be a part of the English law (which they would have praised as warmly then as they do now) till forty years after the reformation effected by Mackenzie in Scotland.† It can hardly be doubted, that if this abuse, which was thought intolerable by the Crown lawyers of Charles II. in Scotland, were still part of the law of England, we should find as much zeal shown, and as much ingenuity exerted in its defence, as we have the mortification to see inlisted in the service of other iniquities equally flagrant.

Sir George Mackenzie's work on 'The Laws and Customs of Scotland in Matters Criminal,' was published in 1678, and is dedicated to the Duke of Lauderdale, to whom the author says, 'You are yourself the greatest statesman in Europe who is a scholar, and the greatest scholar who is a statesman. You are the man who spends the one half of the day in study-

† This privilege was granted to prisoners in cases of Treason, by the excellent statute 7 W. III. c. 3, and in Felony by 1 Anne, stat. 2. c. 9. s. 3.;—a clause foreign to the general object of the Bill, and which probably stole its way into our legislation, so as to elude the watchful hostility of the friends of ancient injustice, and the advocates of established abuse. 'It was an ancient and commonly received practice,' says Blackstone, 'that as counsel was not allowed to any prisoner accused of a capital crime, so, neither should he be suffered to exculpate himself by the testimony of any witnesses.' —*Comm. Book iv. c. 27.*

'ing what is just, and the other half in practising what is so !' At that time the Government of Scotland had no reason to complain of any want of the most base compliance in Juries. It does not appear that, during the eighteen years which had passed since the Restoration, a single Jury had ventured to rescue any one victim, however spotless, from the fangs of power. But the acuteness of the Lord Advocate, even in the midst of this apparent security, discovered the possibility that independent Juries might one day arise. Applying the words of Mr Burke with a small variation to Sir George, it may be said, that he augured integrity at a distance, and snuffed the approach of liberty in every refreshing gale. In this work on Criminal Law, he openly proposes the abolition of Juries in criminal cases. (*Part II. Title 23. Of Assizes.*) His reasonings are ingenious and plausible. He tells us, that 'now when law is formed into a science, and that Judges are presumed to be learned and assizers not, it seems reasonable they should be suppress, as well in criminal cases as they are already in civil.' The grand and paramount benefit of Juries in criminal cases, their power of shielding innocent and virtuous men against the vengeance of power, is kept entirely out of view, though doubtless the sole motive for the project, and the quality which will always render the independence of Juries odious to those Crown lawyers who have the misfortune to be raised to high office under Governments which are maintained by force and fear.

The political conduct of Sir G. Mackenzie, and his political writings, which are a part of that conduct, are closely and inseparably connected with the consideration of the history now before us. We extract the important passage which relates to the trial of the Marquis of Argyll.

'After the Marquess of Argyll had remained some time a prisoner in the tower of London, he was sent down by sea under the keeping of Major Grant, who had likeways the Laird of Swintoun entrusted to him. Being arriv'd at Leith, they were conducted by a guard through the street of Edinburgh a foot: Argyll was cover'd; but Swintoun was discover'd, because he had been formerly found guilty of treason at Perth in anno 1651, for having join'd with the Usurper.

'Upon the thirty first day of January, Argyll had a summons of Treason execute against him, by a herald in his coat; whereupon he petitioned the Parliament, that they would command Sir John Nisbet to undertake his defence; but he having refused, the Parliament did at last command Mr Robert Sinclair, Mr John Cunninghame, and Mr George M'Kenzie, to plead for him.

'When we were brought to our first hearing, and enter'd upon the pannel, which was a high place erected near the entry, the Commissioner, who as all Commissioners use to sit in Parliament dis-

cover'd, did upon his entry put on his hat, as the custom is when criminals are try'd. The Marquess did, in a long and a serious (rather than accurate) speech, represent his own condition most advantageously; in which, after he had enumerated all the favours that the last King and this had put upon him, he desired them to consider how improbable it was, that he would have entertain'd any design which might have tended to their dishonour; and intreated those who were capable to understand when these things for which he was challeng'd were acted, what was the carriage of all the kingdom at that time; and how both themselves and others were led on in these actions without any rebellious inclination; and intreated those who were then young to be charitable to their predecessors, and to censure sparingly those actions whereof they knew not all the circumstances: For oft-times the meanest circumstance will alter the nature of the action that attends it; in all popular and universal insurrections, *communis error facit jus; et consuetudo peccandi minuit et crimen et penam*; and that he had been amongst the last who entered into the confederacy, and had taken the Covenant. As to what was done before the year 1651, he clothed himself with his Majesty's Indemnity, granted in the Parliament at Perth in anno 1651. As to what was done by him since under the usurpers, they were but common compliances wherein all the kingdom did share equally; and in doing thereof many had express allowances from his Majesty, who declared that he thought it prudence and not rebellion, for honest men to preserve themselves from ruin, and thereby to reserve themselves till God should show some probable way for his return: And amongst all those who comply'd passively, none was less favoured by the usurpers than himself; so that what he did was but self-defence; and being the effect of force, could not amount to a crime.

' After this speech was ended, we desired that, seeing we pleaded for the Marquess by command from the Parliament in an action of treason, wherein some things might escape us which might be interpreted to be in itself treason, that what we pleaded or spoke might be no snare to us, and that the Parliament would be pleased to consider more our design than our words; which protestation was ordinarily admitted in such cases; and for clearing of the same, we produced that part of the Criminal Register wherein Balmerinoch's process is recorded. After this we were remov'd; and being again call'd for, we were told by the Chancellor that the Parliament would not admit that protestation, lest we might allow ourselves upon that pretext the liberty of speaking things prejudicial to his Majesty's government; and therefore desir'd us to speak upon our hazard.

' After this his Lordship gave in a bill wherein he desir'd to be remitted to a trial before the Justice Court, seeing his process would require learn'd judges, being so intricate; nor was it presuneable that every gentleman or burgess could understand debates in law; nor were they his peers, and a nobleman should be judged by his peers. This bill was constructed to be a declining of the Parliament; and the Marquess was put to own it, or else to condescend

who had writ it, that he might be proceeded against. This puzzled him very much; and at last we own'd the paper; and after much debate, wherein we endeavour'd to justify it, the bill was refused, but we were excused. Another bill after this was presented wherein we desired the benefit of exculpation, and to lead witnesses to prove the Marquess' innocency; but both the term and form was then new, though now it be ordinary, and this desire was rejected. Whereupon our defences, with the Advocate's replies, our duplies, and his triplies, in writ, were fully read before the Parliament; and after some debate, the Advocate restricted his pursuits to such acts as were done since the year 1651; which was occasion'd by a letter procur'd from his Majesty, wherein he discharged the Advocate to insist against any man, except for deeds done since his Act of Indemnity granted in that year: Against which letter many exclaim'd, because it destroyed the hopes of the old cavalier party; and it was then reported that the letter had been surreptitiously procur'd by the Earl of Lauderdale, to secure his own friends, and was shuffled in amongst other papers when his Majesty was in haste.

The procuring of this letter, and some other accidents that had interven'd, did persuade the Commissioner and Officers of State, that the Earl of Lauderdale had now resolv'd to own the Marquess of Argyll as far as was possible: for though formerly Lauderdale, as a most zealous partizan of the Hamilton faction, had been a great enemy to Argyll whilst these two factions stood in opposition; and though Argyll and his party had decreed to have seiz'd upon Duke William Hamilton and him, who certainly had been executed *in anno* 1649, if the Lord Balmerinoch, who was upon the plot, had not sent him a secret advertisement to flee to Holland immediately [*upon the receipt of his letter: with which he sent him likewise 200 pieces of gold, because they behov'd not to stay to provide themselves if they wanted: to requite which contrivance*] Lauderdale had passionately oppos'd the intended marriage betwixt the King and Argyll's daughter; yet Lauderdale being now rais'd above all hazard of his opposition, and being desirous to lessen Middletoun and to oppose whatever he own'd, did many good offices to the Marquess: and some ascrib'd this assistance to the respect he had still to the good old cause, for which the Marquess mainly suffer'd, and to the intercession of the Lord Lorn, who had married the Countess of Lauderdale's neice, and who stay'd at court to manage his father's business. To balance all which, the Commissioner did send the Earls of Glencairn and Rothes commissioned, as was pretended, by the Parliament, to represent to his Majesty what they had done in his service; but the true design was, that they might oppose all applications that should be made in favours of the Marquess of Argyll: and I remember that the Marquess hearing of the Commission, did immediately conclude himself destroy'd, and his conjecture was very well founded; for Glencairn did daily incense the Duke of Albemarle and the Chancellor of England, and Rothes, who was very intimate with Lauderdale and knew very well how to manage his humor, did much lessen

Lauderdale's kindness to the Marquess, by representing to him how violently Argyll had persecuted him formerly; what new trouble he might bring to his Lordship's affairs, if he escap'd; and that all his endeavours would at last prove ineffectual, and so it was not prudence to engage too far in a desperate quarrel.

* The relevancy of the Articles being discussed, probation was led for proving the late compliance after the year 1651, and his accession to the King's murder, which was excepted out of the letter; and though very many witnesses were adduc'd, yet some thought the probation not full enough. But after the debate and probation was all closed, and the Parliament ready to consider the whole matter, one who came post from London knockt most rudely at the Parliament door; and upon his entry with a packet, which he presented to the Commissioner, made him conclude that he had brought a remission, or some other warrant, in favours of the Marquess, and the rather because the bearer was a Campbell. But the packet being opened, it was found to have in it a great many letters which had been directed by the Marquess to the Duke of Albemarle when he was General in Scotland, and which he reserv'd to see if they were absolutely necessary: and being by these diligent envoys *advertised of the scantiness of the probation*, he had sent them post by M'Naughton's servant. No sooner were these produced, but the Parliament was fully satisfied as to the proof of the compliance; and the next day he was forfeaulted, and the manner of his execution was put to the vote; and being stated, "hang," or "behead," it was concluded that he should be beheaded, and that his head should be placed on the tolbooth where Montrose's head had formerly stood. The Earl of Crawford, being then President in the Chancellor's absence, desired him to kneel and receive his sentence, which he did; and after it was pronounced, he said that he remember'd that he had put the first crown upon the King's head, (meaning at his coronation in Scotland;) and that he hop'd God would bestow upon him a crown of glory, for he always wish'd the King well. He cited likewise that law made by Theodosius, wherein, because he had condemn'd some persons rashly, he therefore ordained that for the future no person should be executed to the death till 30 days after it was pronounced; and therefore craved some time. This he desired because he expected his second son Lord Neill, who was lately gone to court, would procure at least some respite for him. The Parliament seem'd much affected with this great revolution of fortune, and his own carriage, which drew tears from his very enemies; yet by a vote, all delays were refused, and he sent to the tolbooth amongst the ordinary prisoners; from whence he was brought to the cross of Edinburgh upon the 27th day of May 1661. *

* We omit the dying speech, which does not substantially differ from that which has been frequently printed, and is to be found in the State Trials.

‘ At his death he shewed much stayedness, as appeared by all his gestures, but especially by his speaking to the people without any commotion and with his ordinary gestures; and his giving his watch to the Earl of Caithness, telling him with a smile that it was fit for men to pay their debts, and therefore having promised him that watch he would now perform it. And I remember that I having told him, a little before his death, that the people believ’d he was a coward and expected he would die timorously, he said to me he would not die as a Roman braving death, but he would die as a Christian without being affrighted. Yet some concluded that he dy’d without courage, because he shifted to lay down his head, and protracted time by speaking at all the corners of the scaffold, which was not usual, and buttoning his doublet twice or thrice after he was ready to throw it off. The scaffold was full of such friends in mourning as he had given up in list, and who were contained in a warrant subscribed by the Commissioner: these carried his body to the Magdalene Chapel, from whence it was convoy’d to his ordinary burial place at Kilmun.’ pp. 33—47.

This passage terminates all controversy about the means by which Argyll’s death was effected, and consequently leaves no doubt about the character of Monk. It corresponds, with remarkable minuteness, to the narrative of Burnet, a zealous and avowed partisan, but an honest writer, whose account of facts is seldom substantially erroneous, though it be often inaccurate in points of form and detail. Baillie, the Principal of the College of Glasgow, a contemporary, who died before Burnet’s History was written, agrees in ascribing the death of Argyll to the treachery of Monk; and Cunningham, a well-informed writer, who was travelling tutor to John Duke of Argyll, mentions the same fact in his *History of Great Britain*. The relation of Burnet, corroborated by the evidence of Baillie and Cunningham, was adopted by Mr Laing, whose acuteness and integrity in the investigation of facts, and in the estimate of authorities, have never been surpassed by any historian. With such an agreement of testimony on one side, and with none on the other, Mr Fox, in his *Historical Fragment*, relates this action of Monk as an instance of the baseness which appears in every conspicuous part of his life, and which, on this occasion, prompted him ‘ to produce letters of friendship and confidence to take away the life of a nobleman, the zeal and cordiality of whose cooperation with him, proved by such documents, was the chief ground of his execution; thus gratuitously surpassing in infamy those miserable wretches who, to save their own lives, are sometimes persuaded to impeach and swear away the lives of their accomplices.’ *

The justice of Mr Fox's remark was not, and indeed could not, be controverted by those who admitted the reality of the fact which suggested it. The admirers of Monk were therefore driven to the necessity of disputing the fact. The late Mr Rose took the field on the occasion, in his *Observations on Mr Fox's History*; and, not content with his own investigation, he procured his Northern friends to make 'a diligent search into the Records of the Parliament, the Council, and the Justiciary in Scotland;' and he concludes, 'that it is hardly possible to conceive that *stronger evidence could be found to establish a negative than is produced to prove the falsehood of the Bishop's charge.*' Both Mr Laing and Mr Sergeant Heywood sufficiently showed† the unreasonableness of Mr Rose's conclusion. The publication of the present volume ascertains, beyond the possibility of doubt, the meanness of Monk, the veracity of Burnet, and the extreme danger of such dogmatical assertions as that, which has been last quoted from Mr Rose. One of the greatest aggravations of Monk's guilt has hitherto been unobserved. In his correspondence with the English Government, when Commander-in-Chief in Scotland, he uniformly represents Argyll as an enemy of the Protector's authority; and that nobleman, who was too sagacious not to discover the opinion of the English general, probably thought it necessary, to his own safety, to make strong professions of attachment to the Protectoral Government in his letters to Monk. This language, we know, did not deceive that officer: He did not believe its sincerity. Yet he afterwards sent these letters to the Scotch Parliament, to convince them of what he did not himself believe, that Argyll was a hearty friend of Cromwell. Had the letters contained legal proof of any treason beyond mere compliance, it is impossible not to suppose that they would have been preserved by the Scotch Government, and adverted to by Mackenzie in justification of their proceedings. These letters were not made public at the time when a justification of such questionable proceedings would naturally have been sought for, nor is it known that they have escaped destruction; and it seems reasonable to conclude that they contained only language of adulation towards Cromwell, and perhaps of hostility to the Stuarts, adopted by Argyll for his own safety, which, when

† This is not the only testimony on the subject left by Mackenzie. In his work on the Criminal Law, the production of Argyll's letters to Monk is clearly referred to in illustration of a point in the Scotch law of evidence. In our review of Mr Sergeant Heywood's *Vindication of Mr Fox*, we formerly quoted the passage, Vol. XVIII. p. 334.

suddenly disclosed in a Parliament drunk with loyalty, was sufficient to intimidate and silence his friends.

This is not the only Tory attempt to falsify English history, which has been detected during the present year. The once famous controversy concerning the author of ΕΙΚΩΝ ΒΑΣΙΛΙΚΗ is at length decided. It had been disputed for a century and a half whether that book was the genuine work of Charles I., whose name it bears, or the composition of Dr Gauden, Bishop of Exeter, which, by a pious fraud, he ascribed to that Monarch, in order to increase its effect on the public feelings. The dispute was kept up even to our own times, in the historical works of Hume and Laing. The former of these historians, beginning with a very dexterous diffidence, tries to lure his readers into a belief of the genuineness of the work, which he calls the best prose composition at that time to be found in the English language. It passed through fifty editions in a twelvemonth; and it was long thought almost impious to entertain doubts of the authorship of a royal and sacred work. That it was, however, the composition of Gauden, is now certain, from some of his letters to the Earl of Bristol, preserved in the Archiepiscopal Library at Lambeth.* After alluding to the secret which Lord Bristol had it seems penetrated in two of these letters, he proceeds in the third to press it strongly, as the ground of his claim to the bishopric of Winchester, which had then become vacant. ‘ I confess I thought myself somewhat redeemed beyond other men from court solicitations, by his Majesty and his Highness being conscious to my most signal service; which I well know is to be kept secret, as fit only for royal and noble breasts. Nor could I prudently expect, upon that account only, any extraordinary instance of his Majesty’s favour, without putting the world upon a dangerous curiosity; if in other respects I had been unobtrusive, which I thank God I was not, but sufficiently known to all the English world by those many great and public works I had done to the hazard of my estate, liberty, and life.’ Among these, he goes on to enumerate his ‘ *Hieraspistes*’ and ‘ *Hiera Dacrua*,’ neither of which is likely to be very familiar to our readers. He then observes, that ‘ it is the wonder of the better world to see me hitherto exposed to so incompetent and inconvenient a condition; which looks so like a banishment more than preferment—drawing me much against my genie from a very happy privacy to a conspicuous, attended with toil and tenuity, which are next neighbours to contempt. These considerations

* Todd’s Life of Walton, I. 139, 147.

'I offe to demonstrate, that his Majesty's favour may be grounded on the publique services I have done, *besides that private one which is consecrated to the highest merit, reputation, and honour in the world; as the urn of royal ashes, and the embalming of a martyred King.*' — 'This I am sure, whoever hath the *tulit alter honores*, I may challenge *hos ego versuculos feci*; and the world thought them heroic and worthy of Augustus. However, no latency of my services should in justice be any prejudice against me, among those few *who are both conscious to the merit, and now enjoy the fruit of them.*' Gauden's widow also, after his death, writes to Lord Bristol, — 'He did also, before his departure, tell me, *that your Lordship was privy to that which the world is so perfectly ignorant of.*'

We may observe, that this modest and disinterested Prelate, at the very moment of his earnest suit, was Bishop of Exeter, and had just received twenty thousand pounds as fines on the renewal of leases, in consequence of the long vacancy. This situation the good Bishop considers as a station of 'toil and tenuity.' In our days, it is notorious that no Bishop of Exeter ever solicits the Bishopric of Winchester; and that no Prelate is ever raised to that rich diocese at the suspicious moment when he publishes useful works on temporary politics. If a mitre could be fairly employed as a premium for ingenious fraud, Gauden might have deserved it, as one of the most successful and perhaps the most excusable of literary impostors.

In the Parliament which was assembled in 1669, and which, after having sat for four Sessions, was dissolved in 1674, Mackenzie distinguished himself in opposition to the administration of the Duke of Lauderdale. In the work before us, he has preserved several of his speeches, as well as some account of those proceedings which appeared to him most important. In a debate on an act which required an oath from merchants, that they imported no goods without payment of duties, Lauderdale observed, — 'That the stealing of the King's customs was a crime; whereupon Sir George Mackenzie replied, that if it was a crime, no man could be forc'd to swear for it. This and all the other passages of that day, join'd with Sir George *owning** the Burghs, in whom it was alleged he had no proper interest, made his Grace swear, in his return from the Parliament, that he would have

* The verb 'to own,' is not used in English in the sense which it bears here, namely, 'to support, or to favour.' It is not to be found in Jameson. This Scottish acceptance of the word is easily derived from one of its English significations, in which it is synonymous with 'to avow.'

that factious young man removed from the Parliament : to effectuate which, he called a Council of his favourites ; and it was there contrived, that his election should be quarrel'd, because he only held lands of the Bishop of Ross, but not of his Majesty, and so was not a free baron. But they were at last diverted from this resolution by the Register, who assured them that this would make the people jealous of some close design to overturn their liberties ; which, as they believed that gentleman defended upon all occasions, and that he would glory in his exclusion.' *Mem.* 172.

During this season of opposition, Sir George gives the following particulars of Lauderdale's government, which it is curious to compare with the dedication of the Criminal Law to the same person a short time afterwards.

' In this Parliament, the members were rather overaw'd, than gain'd to a compliance ; for Lauderdale was become so lazy, and was naturally so violent, and by his Majesty's favour and his own prosperity, was so far rais'd above all thoughts of fear, that he never consulted what was to be done ; nor were the members of Parliament solicited by him, or his friends, upon any occasion ; whereas, on the contrary, he would oftentimes vent at his table, that such Acts should be past in spite of all oppositions. But as men naturally admire most any thing at a distance, because of the defects of the object, and of the unconstancy of the admirer, so the people, and even the Parliament, did begin to undervalue Lauderdale ; and by his bawdy discourses, and passionate oaths, he lost much of his esteem amongst the Presbyterians : and that raillery and constant speaking, which was his ornament, sometimes, in private conversation, seem'd very in a Commissioner ; and his prevailing in all that he propos'd, was attributed more to his power than his conduct. Though the Chancellor was suspected to have had some aversion for him, and that it was thought he was in some danger, he so dexterously manag'd his humour, by compliance, gaming and raillery, that Lauderdale, who knew not what it was to dissemble, did doat upon him, and would do nothing without his advice : and amongst other artifices, whereby the Chancellor recommended himself to his favour, I cannot forget two. The first was, that he was most severe in Parliament, as President, to all his own friends, when they oppos'd any act that was presented : another was, that he constantly brought into the Session, all the pleas or causes of such as were any way related to the Commissioner ; and I remember that he own'd one of Lauderdale's friends, against his own cousin, by which methods he fix'd his court, but lessen'd his reputation : Whereas, on the other hand, the Duke of Hamilton, who had of a long time hated Lauderdale, by his opposition to every thing which might prove a burden to the country, did gain himself more honour, than he could incur hazard.'—*Memoirs*, 181, 182.

The lady described in the following passage became afterwards the wife of Bishop Burnet.

' Lauderdale had, of a long time, entertain'd with Lady Margaret Kennedy, daughter to the Earl of Cassillis, an intimacy which had grown great enough to become suspicious, in a person who lov'd not, as some said, his own lady. This lady had never married, and was always reputed a wit, and the great patron of the Presbyterians, in which persuasion she was very bigot; and the suspicion increas'd much, upon her living in the Abbey, in which no woman else lodg'd; nor did the Commissioner blush to go openly to her chamber, in his night gown: whereupon her friends, having challeng'd her for that unusual commerce, and having represented to her the open reprehensions and raileries of the people, received no other answer, than that her virtue was above suspicion; as really it was, she being a person whose religion exceeded as far her wit, as her parts exceeded others of her sex.'—*Mem.* p. 165.

The Countess of Dysart, for whom Lauderdale 'professed an open gallantry,' became in 1671 his wife, and so much influenced his government, that her character forms a part of the history of Scotland at that time.

' Whilst these projects are upon the wheel, the ' (first) ' Countess of Lauderdale dies at Paris, and is buried as Vice-Queen of Scotland, in great state: and thereupon it was much doubted, whether Lauderdale would marry the Countess of Dysart, to satisfy his fancy, or would choose some young lady, by whom he might expect succession. But she had such an ascendant over his affections, that neither her age, nor his affairs, nor yet the clamour of his friends and the people, more urgent than both these, could divert him from marrying her, within six weeks after his lady's decease; which confirm'd much the former suspicions, that the world entertain'd of their deportment: and Sir Robert Murray having entreated him to shun this, he thereby incurr'd both their displeasures, and Lauderdale did, in an instant, turn from being a friend, to be his mortal enemy; so much is friendship a weaker passion than amours are, and so foolish a thing it is, for friends to interpose betwixt a man and his mistress. And though it was alleg'd by her friends, that she was then but forty-five years of age, and so might have her children, yet this was no motive of his, nor was it founded upon any measure of probability; but in this he really yielded to his gratitude, she having formerly sav'd his life, by her mediation with the Usurper. Nor was her wit less charming, than the beauty of other women; nor had the extraordinary beauty she possess'd, whilst she was young, ceded to the age at which she was then arriv'd.'—*Memoirs*, pp. 217, 218.

' She was,' says Burnet, ' a woman of great beauty, but of far greater parts. She had a wonderful quickness of apprehension, and an amazing vivacity in conversation. She was violent in every thing she set about; a violent friend, but a much more violent enemy. She made Lauderdale believe that she had saved his life by her intrigues with Cromwell, who was certainly fond of her; and she took

care to entertain him in it, till he, finding what was said upon it, broke it off. She came to have such power over Lauderdale, that all applications were made through her. She sold all places. As the conceit took her, she made him fall out with all his friends one after another. Hamilton, Argyle, Tweeddale, Athole, Kincardine, had their turns in her displeasure, which quickly drew Lord Lauderdale's after it. If, after such names, it is not presumption to name myself, I had my share likewise. — *Burnet*, I. 245.

Mackenzie's Parliamentary opposition, though sufficient to provoke the resentment of Lauderdale, seems to have been very wary. He does not appear to have done more than was necessary to make his own talents conspicuous; and he was so far from throwing away the scabbard, that he did not oppose the most favourite and dangerous measures of the Court. He was aware that Lauderdale was 'the only favourite supported ' by the French interest;' and he says, 'that the chief reason ' of his greatness did, *as some allege*, proceed from the assistance he gave to establish an absolute monarchy in England, ' by French money and arms.' (*Mem.* 219.) Yet this project, of which he speaks so coolly, neither excited him to vigorous resistance against its authors, nor prevented him from accepting office under them, when their designs became more apparent. He faintly blames an act passed in 1670, obliging every man to *answer all questions* proposed to him by the Privy Council, under pain of banishment, or such other discretionary punishment as that body might inflict: and another which, after subjecting all meetings of Nonconformists in houses under the name of Conventicles to severe fines, subjects all those who convoke or hold the like meetings in the fields to the punishment of death! 'Thus,' says he, 'these fanatics wrong'd their country, not only in breaking the good old laws, but in occasioning the making of too severe new statutes: And yet it was said by some, that it had been better to have made the new laws less severe, that they might have been the more severely observ'd, and that thir laws were made so severe upon design, that they might not be observ'd; and that the fanatics might clearly see that the grandees were not in earnest.' — *Memoirs*, 190.

In the year 1670, an unsuccessful attempt was made to negotiate an Union with England. This treaty broke off, on the claim of the Scotch Commissioners, that every member of the Scotch Parliament should sit in the Parliament of the United Kingdom; a pretension which, if it had been acceded to, would have introduced into the House of Lords eleven Scotch Prelates, and sixty-one temporal Peers; the English Prelates being then, as now, twenty-six, and the English temporal Peers a

hundred and fifty four.* A hundred and twelve Scotch Commoners would have been added to the House of Commons, which consisted of five hundred and thirteen.

Mackenzie's Report of his own Speech is perhaps the only authentic account of the speech of a member of the Scotch Parliament before the Revolution. We here subjoin it. It is by no means an inelegant composition; but the writer does not even seek to imitate the natural style of spoken language.

' Oct. 21st.—This letter being brought into the Parliament, Sir George Mackenzie desir'd that the Parliament might be allowed to think upon so serious an affair till tomorrow; which overture Sir George Gordoun seconded, and withall added, that before the Parliament could condescend to nominate Commissioners, they behov'd to debate whether the propositions were convenient or not; in which they would meet with considerable objections, as that of the succession to the Crown, in case his Majesty should die without succession; for the lines of succession in England and Scotland were different, and would there divide. Whereupon the Commissioner rose in a great passion, and told that he consented that the Parliament should deliberate upon the letter now read, till tomorrow; but that he understood not, how any member of Parliament could be so bold as to enquire into the succession, upon a supposition that his Majesty and all the present royal line should fail. But the gentlemen were excus'd by Duke Hamiltoun; in whom this excuse was thought imprudence, because the doubt was started in his favors; the family of Hamiltoun pretending to be next to the crown of Scotland, if the succession of King James should fail.

' Next day, the Parliament's letter was again twice read, as the custom is; and Sir George Mackenzie, after twice reading of it, spoke thus.

" My Lord Chancellor,

" Though I design not absolutely to gratify these popular delusions, which have grown up against this intended Union, either from an excessive fondness which our countrymen have for this their native country, or from their ignorance of the equality designed in this Union, yet, my Lord, I wish this Parliament would so far indulge this pardonable zeal, as to consider maturely and slowly this so great an affair; that the people may be convinc'd, that we are as jealous of our liberties as they could wish us; and that England may know, that we are not so weary of our liberties, as not to think them worthy of our exactest pains. What is got cheaply, is little valued; and in these affairs, wherein we can do but once, we should deliberate long. There is likewise a decorum to be keep'd by great judicatures, as Parliaments are, in such great affairs: Nor should form and gravity

* Chamberlayne's *Present State of England*, 1674. Seventy years before, the English Peerage amounted to sixty-five.

suffer our determinations to be even as swift as our reason, especially in treating with England, whose Parliaments do not pass any Law, till it be proposed and debated several days.

" We are now, my Lord, to consider the return to be made to his Majesty's gracious letter, wherein he assures us of the continuance of his care for our happiness ; and wherein he proposes to us an Union with England, as the mean which can be most conducive thereto. In answer to which, our intended return bears our humble and thankful acknowledgement of his Majesty's favor, and our hearty concurrence to the Union proposed ; from which no good subject I hope will dissent, seeing to be unsensible of his Majesty's favours, were to be unworthy of them ; and not to consent to an Union, if we be sure to be gainers thereby, were to be enemies to our own advantage.

" But, my Lord, the answer bears beyond what the letter required ; that we refer to his Majesty the nomination of treaters, the number, quorum, and of the time and place of their meeting : as to which, seeing I have thrown myself into the throng of speakers, I humbly propose these three things, to be considered rather as overtures than as objections.

" First, Whether it be suitable to our honor, to advance in this Union three steps, before England meet us in one : and that we have done so in this letter, appears from this, that to treat of an Union is one step ; the second is to name Commissioners ; the third is to appoint their quorum, time, and place of their meeting ; all which are several steps, because they behoved, if they had been concluded in Parliament, to have had several votes and conclusions. Now, my Lord, it is most clear that when two parties are to be united, they should advance but equally ; and certainly he yields who cometh farthest ; and would it not be a great baffle to our reputation, if England should absolutely refuse a treaty, after we have gone so far to meet them. And though in this we but obey our Prince, and treat not immediately with them, yet seeing the treaty concerns them mainly, and not our Prince, I am confident he will not desire us to outrun them. Let us remember that Nature, in the distribution of her favours, hath bestowed ease and riches upon others ; leaving us courage and honor, by which we made ourselves oftentimes masters of the other two ; and when honour was in the field, our veins and purses were open upon all occasions ; and therefore, though honour seem but a punctilio to others, let us be careful of it, as were our predecessors.

" The second point I propose is, Whether it be fitter for his Majesty's service, and the intended treaty, that the nomination of the Commissioners should be referr'd to his Majesty ; or rather that they should be nominated in Parliament. And that they should be nominated by the Parliament, may appear reasonable ; first, because this Union, being a design that dissatisfies the people, and so mysterious that the event may prove unsatisfying, (so great a dominion has fate over the best contrived of our actions), it were just that we should

rather take all the burden of their odium and the event upon ourselves, than transfer it upon his Majesty. And I remember that a famous Roman historian observes, that upon the close of Tiberius' reign, when the Senate began to have little kindness for their Emperor; they referr'd still to him the determination of every thing which they thought unfavourable. 2d. It is designed that this Union should be a national act; and the way to make it so is, that all its steps should be nationally concluded: and certainly the nomination of Commissioners is the chiefest part of the treaty, seeing much must be referr'd to their fidelity and conduct; and albeit a liberty be reserv'd to us to consider the procedure, yet at best few will be able to debate the determinations, which will have the advantage of being already agreed to by so many, and which we, who will not be upon the place, cannot well understand; being to be strangers to all the circumstances from which these conclusions are infer'd. Let us remember, how little we contravert even what is determined by our own Lords of Articles: the English likewise will, in my opinion, be the more willing to treat with us, that they see us inclin'd to do it upon a national account, and not only in obedience to our Sovereign; which compliance they will judge to last no longer than the Prince's life to whom we granted it. 3d. The Parliament's nominating them, seems more suitable to his Majesty's command; for he hath call'd us together, that we may deliberate upon this grand affair, as his great council; and it is the duty as well as the nature of a council, to give their Prince advice, and not to refer to himself back again, what is by him desired of them. There needed no Parliament, if this were; nor should Parliaments be useful for Princes; being at such a distance as that they cannot exactly know who are fittest; for some private barons and burgesses must be chosen, because they understand coal, salt, or trade, which persons his Majesty can hardly know. So that the question is not, whether the King or Parliament, but whether the King or any one courtier or favourite, shall have the nomination. 4th. This may grow up into a dangerous preparative; for though we be now secure in a good and judicious Prince, and in able officers, yet these are not so immortal as I hope the same shall be; and it were dangerous to allow the nomination to a succeeding Prince, of whose favour and prudence we may possibly not be assured; and yet, doubtless, he would crave that as his due; for allowances from Parliaments become soon a prerogative; and successors think their prerogative invaded, when what was allowed to their predecessors is deny'd to them. 5th. Our Commissioners will be the more careful to satisfy us, that they are nominate by us; and we the bolder to quarrel their procedures: whereas few will have the courage to quarrel the proceeding of such as are pickt out by his Majesty, and only for the fashion allow'd by us; it being natural for all trustees, to think themselves only accountable to their constituents. 6th. The last Commission, 1604, bears the Commissioners to have been nominate by the Parliament; and so does the

Bishop of St Andrews' story bear, to have been done both in Scotland and England. We are to be the greatest losers, and so should be the slowest concluders : for this Union will rather add us to England, than confound us with them : the representatives of both must still reside amongst them ; and in the intended Parliament of both, we must be still at their devotion, because they may overvote us upon all occasions.

" The third thing I intend to observe is, That so great an affair should have some other basis than the transient mentioning in a letter ; neither conceive I it pertinent, that an answer to his Majesty's letter should bear more than what was in the letter which is to be answered ; so that I think there should be a separate Act of Parliament requisite, especially in an affair wherein we are to subvert the fundamental laws of our country. And I likewise think, that we should recommend to his Majesty's care, the preservation of our liberties, laws, and privileges, as in the Commission 1604 ; else we are not as careful of our country as our predecessors : and albeit we cannot be confident enough of his Majesty's favour, yet can we not be careful enough of our own native country : wherefore I wish the letter should bear, that we would grant a Commission to treat, under such reservations as the Parliament should think necessary, in an affair wherein they behoved to be tender of their ancient privilege.

" This, my Lord Chancellor, I humbly offer, out of an innate affection to my country, to whose good I am content that my reputation (which I know will suffer in this confidence) should yield : and seeing it is fitter that the Parliament should be troubled by hearing such as are too forward, than that so great an affair should be prejudged by not speaking enough (where too much can never be spoke, and upon a subject where that silence, which is a virtue at other times, should be now a crime), I hope the Parliament will suffer this tediousness to pass for zeal."

' About the close of this discourse, he was interrupted by the Earl of Tweddale ; who said that such long discourses were intolerable, especially where they intended to persuade the Parliament not to comply with his Majesty's desires : Which interruption was generally lookt upon as a breach of privilege ; and it was desired by Duke Hamiltoun, that the Earl of Tweddale should go to the bar ; but the gentleman who was interrupted declar'd, that he had not been interrupted, but had finisht his discourse ; and thereupon that motion took no further effect.'—*Memoirs*, pp. 148–155.

The first Lord Stair was what would now be called an Ultra-Whig. An officer in the Covenanting army, and a Professor of Philosophy at Glasgow, and one of Cromwell's Judges in Scotland, he refused to take the oath against resistance after the Restoration ; and never sacrificed his original principles, though, like many others in that age, he was content to hold office under Governments which were irreconcilably hostile to

these principles. Considering these circumstances, Mackenzie's character of him deserves commendation for its candour.

'And really Stairs was a gentleman of excellent parts, of an equal wit, * and of universal learning; but most considerable for being so free from passions, that most men thought this equality of spirit a mere hypocrisy in him. This meekness fitted him extremely to be a President; for he thereby receiv'd calmly all men's informations, and by it he was capable to hear, without disorder or confusion, what the Advocates represented. But that which I admired most in him was, that in ten years intimacy, I never heard him speak unkindly of those who had injured him.'—*Memoirs*, pp. 214, 215.

We shall close our extracts with a passage which describes, more accurately than any former historian, the discussion in the Scotch Council, held by Charles II. in London, respecting the reestablishment of Episcopacy; a measure which, probably more than any other, influenced the character of his administration, and the fate of his family.

'The Earl of Middleton, after the Parliament was adjourn'd, return'd to Court; taking along with him the Register, and the Acts of Parliament made in the last session; which favour the Register who then govern'd all earnestly desir'd, upon design to be rewarded for his pains in drawing the Acts so advantageously for his Majesty's interest. The Chancellor of England, Ormond, and all the cavalier party, had prepar'd his welcome by magnifying upon all occasions his great services perform'd in Scotland, by quashing all the fanatick zeal so that they even forgot to murmur; and by declaring his Majesty's prerogative, beyond whatever any King of Scotland claim'd when he was present. Immediately after his arrival a Scottis Council is called, wherein he gives a full account of his Commission, and of what he had done by virtue of that trust; and is highly thereupon magnified by his Majesty, and such English Councillors as were admitted to be Councillors for Scotland. And to surprize Lauderdale, Crawford, and such others as were suspect of presbyterianism, it was order'd that Middleton should propose a change of the government of the church; and therefore, how soon Middleton had received his thanks, he spoke to the King thus. "May it please your sacred Majesty; You may perceive by the account I have now given of your affairs in Scotland, that there is no present government establish'd as yet in that church. Presbytery is, after a long usurpation, now at last rescind'd; the Covenant, whereby men thought that they were oblig'd to it, is now declar'd to have been unlawful; and the Acts of Parliament whereby it was fenc'd, are now remov'd; so that it is arbitrary to your Majesty, to choose what government you will fix

* It is hard to say in which of the many successive senses of 'wit' it is here used as distinguished from 'parts.' It can scarcely be the modern sense.

there ; for to your Majesty this is, by the last Act of Supremacy, declar'd to belong : But if your Majesty do not interpose, then Episcopacy, which was unjustly invaded at once with your Royal power, will return to its former vigour." Glencairn added, that the insolence of the presbyterian had so far dissatisfied all loyal subjects and wise men, that six for one in Scotland long'd for Episcopacy, by which no rebellion was ever hatch'd, that government having still own'd the royal interest ; whereas [*Calvinism and*] Presbytery had never been introduced in any country without blood and rebellion ; as at Geneva, in France during their civil wars, in Holland when they revolted from Spain, and now twice in Scotland ; once by the Regent Murray when Queen Mary was banisht, and lastly in anno 1637. Rothes likewise said, that though he had not seen the first rise of that innovation, yet in anno 1648, he was witness to their ruining of the Engagement ; and in anno 1649 and 1650, to their indiscreet usage of his Majesty. Lauderdale answered, that this motion was of greater importance than that it could be seriously determin'd without many thoughts and much information ; for upon a resolution in this depended the quiet of this kingdom, who were very unmanageable in matters of religion ; and therefore propos'd, that his Majesty might either call a General Assembly, or else consult the Provincial Assemblies of each country ; which, because they consisted of ministers and lay elders, would acquaint his Majesty with the inclinations of his subjects there ; or, if either of these overtures displeas'd, his Majesty might call for the ablest divines of either opinion to come to Westminster. Middletoun reply'd, that all these three ways tended to continue Presbytery ; for it was most probable that ministers who had govern'd all of late, would have such influence as to choose ruling elders of the same minds ; and both would be unwilling to quit their hold ; or at least the leading men whom the inferior clergy durst not disown whilst that hierarchy stood, durst not quarrel the resolutions of their Rabbis, who would adhere to the oath they had taken and defend stoutly their own supremacy : and therefore, neither a General nor Provincial Assembly were fit judges, nor could they be now call'd together, seeing Presbytery was abrogated ; and to call these were to restore them, and to infringe the Act Rescissory. All being silent after this reply, the Chancellor of England, who observ'd that the Earl of Crawford shun'd to mingle himself with the debaters, press'd his Majesty that all might speak in a case which concern'd all ; which he did upon design to force the Earl either to disown Presbytery, or to displease the King, whereby he would hazard his Treasurer's rod, that might fall thereby in Middletoun's hands. Crawford thus doubly gall'd, did most passionately press that Provincial Assemblies might be consulted, and assur'd his Majesty that six for one in Scotland were for Presbytery. Nor were the offences of reformers to be charg'd upon the reformation ; the best innovations, (said he,) were ever attended with much irregularity ; and so it was better to continue that government, which had now past all

these hazards and errors which were at first unaccountable, than to hazard upon another, which would be at first unhappy in the same inconveniences. Nor did the Act Rescissory cut off Presbytery; for it was secur'd by acts of General Assemblies, which had been countenanc'd by his Majesty's father's Commissioners, and these were yet unrepeal'd. Duke Hamilton, (who had not as then own'd Middle-ton, but adher'd still to Lauderdale who pretended to own the old Hamilton interest,) added that the reason why the Act Rescissory had past so smoothly was, because his Majesty had promis'd to continue Presbytery, in his letter direct to the Ministers of Edinburgh. The Chancellor of England having now Crawford upon this lock, turning to the King, said; "Indeed, Sir, Lauderdale has spoke like a judicious sober man, and has given your Majesty a very secure advice; (for he us'd to compliment Lauderdale, that his Majesty might think that he lov'd his person, and so might not construct any thing that he said against him as proceeding from malice;) but, Sir, the Earl of Crawford has own'd all that ever was done in Scotland in their rebellion; and God preserve me from living in a country, where the church is independent from the state, and may subsist by their own acts; for there all churchmen may be kings." Upon this debate his Majesty clos'd the meeting, telling them that he perceiv'd that most voices were for Episcopacy, and therefore he resolv'd to settle it with all diligence. The Chancellor perceiving Crawford in a huff, came to him kindly and told him, that if he were not a rigid presbyterian he would be very much his friend and servant: to which Crawford answer'd, my Lord, I was your friend when you needed much my assistance; meaning that he had interpos'd with his Majesty for him in the year 1653 by letters, when he was like to have fallen under some cloud with his Majesty, by the enmity of the Queen mother and the Duke of York. pp. 52—56.

The Episcopal Church seems to have owed its restoration more to the interests and passions of various candidates for power, than to regard for maxims of ecclesiastical or civil policy. It must however be observed, that it is the general fault of all active politicians, who write the history of their own times, to consider public measures more as they indicate the character, or aid the ambition of statesmen and courtiers, than as they affect the public interest, or arise out of the temper and opinion of the people. The accidental humours of a court—the quarrels or intrigues of a cabinet—which almost always appear to be among the occasional causes of political events, retain, in the eyes of such an historian, that importance which he ascribed to them when engaged in public life, when they often hid from his view the operation of those more general and powerful agents, which a wise statesman is most concerned to study. A minister, whose power may be destroyed by an intrigue, can hardly think it insignificant. Our feelings for indi-

viduals are so much stronger than for communities, that those who are familiarly conversant with the authors of political measures will often think more of the motives of the authors than of the effects of the measures. It is difficult to be severe on the most fatal error of those whom we know to be generous, or to feel much zeal for measures, however good, which we know to spring from a mean source. It must also be added that, to ascribe a measure to personal character, is an explanation of it more generally intelligible, and which has a greater appearance of being agreeable to experience, than the reference of it to general causes; and that the writer of secret history naturally magnifies to himself and his readers the importance of those facts which are known to few besides himself. From these causes, the memoir writer, like the active politicians, of whom he generally is one, is too apt to confine his view to the narrow circle of the court or party in which he moves; and to lose sight of a more enlarged national opinion, as well as of that tendency to public welfare, by which the dispassionate historian and the wise statesman must try public measures.

These faults of the memoir writer are, however, often compensated by information which cannot be otherwise obtained; and, if he limits himself too much to the designs of the few, even that excess may serve as a check to the vague and rash judgments of the multitude, and may be useful in counterbalancing that disposition to uncertain hypothesis which is the vice of the speculative historian.

The Scottish Administration of Charles II. is an instructive part of history. It affords an awful warning that false principles of government, aided by the common passions of human nature, may, in a few years, convert a civilized country into a field of blood. The Government of Scotland seemed at first only to adopt the maxims of State universally received in that age. The progress of severe legislation was gradual, and at every step it had a plausible pretext; but it ended in scenes of cruelty which remind us of the reigns of the most monstrous tyrants of antiquity, and which, if they had long continued, would have divided Scotland between a people of assassins and an atrocious cabal, who employed the powers of law for the purposes of rapine and murder. The restoration of Episcopacy, whatever may be thought of its wisdom, must be owned to have been a natural measure. Dissent from the Established religion was then every where punished as disobedience to the law. In punishing separation from the Church, * Scotland only followed the example of England. The Scotch ministers

* Scotch Acts, Sess. 1663, Oct. 9.

may be excused for not foreseeing that Toleration, which had been introduced by Cromwell and was now abrogated by Clarendon, would speedily establish itself in England, either by law or by revolution; but they ought to have been aware that the Nonconformists of Scotland were actuated by a fiercer spirit, that they formed a much larger proportion of the people, and that the ruin of Charles I. had arisen from his attempts to subdue that attachment to the Calvinistic worship and discipline which had prevailed among them since the Reformation. The mere letter of the law was far from the most important circumstance attending it. The great evil of such laws is, that they give an incentive and a sanction to the cruelty with which a favoured faction carries them into execution. When the Presbyterians forsook the churches in great multitudes, and as in such circumstances might be expected, with frequent tumult, the soldiery were employed to enforce the laws. The atrocities of the army produced a revolt, which was quelled at Pentland Hills in 1666. 'The oppression which these people had suffered, the delusions under which they laboured, and their inoffensive behaviour during the insurrection, made them the objects of compassion. Yet were the King's ministers, particularly Archbishop Sharpe, resolute to take severe vengeance.' † After this, a scheme of moderation was, for a short time, tried without effect. 'There was in the political body a disease very dangerous and inveterate; and the Government had tried every remedy but the true one to allay and correct it. An unlimited toleration, after sects have diffused themselves and are strongly rooted, is the only expedient which can allay their fervour, and make the civil union acquire a superiority over religious distinctions. But, as the operations of this regimen are commonly very gradual, and at first imperceptible, vulgar politicians are apt, for that reason, to have recourse to more hasty and more dangerous remedies.' ‡

Agreeably to the wretched policy thus described by the philosophical historian, the Parliament of Scotland, in 1669, 1670, and 1672, passed new and more rigorous laws against the unhappy Presbyterians; couched, indeed, in moderate language, and seemingly excused by the late disorders, but calculated to prolong and aggravate them, by inflaming the passions, as well as enlarging the powers, of the ruling faction. It is more important to observe their general spirit and tendency, than even those monstrous provisions on which historians have already animadverted with deserved severity. These laws, aided by still more tyrannical regulations of the Privy Council, and executed

† Hume, *Hist.* Charles II. Chap. ii.

‡ *Id.* Chap. iv.

with unsparing rigour by an army kept up only against the people, and by the employment of the Highlanders, the most loyal, but the most lawless part of the nation, against the discontented Presbyterians, drove them once more into open insurrection. After the suppression of that revolt, some of them more ardent, more enthusiastic, and more indignant than the rest, were provoked into extravagant opinions and furious language, insulting to authority, repugnant to morality, and subversive of society. Assassination was practised and defended. These excesses, instead of being treated as the fatal fruits of a sanguinary administration, were greedily seized by tyrannical ministers as a pretext for multiplying and increasing those very severities which had caused the evil. The violence of Cargill and Cameron, who had excommunicated the King, and renounced all allegiance to the Government, the assassination of Sharpe, and the obstinate fanaticism of those who would not condemn it, were imputed to the whole body of the devoted Presbyterians. They were much 'insisted on,' says Mr Hume, 'as an apology for the rigours of the Administration; but, if duly considered, they will rather afford reason for a contrary inference. Such unhappy delusion is an object rather of commiseration than of anger; and it is almost impossible that men could have been carried into such a degree of madness, unless provoked by a long train of violence and oppression.'* Such was, in short, the result of a deviation from the principles of toleration, of the just impatience of an oppressed people, of the resentment and fury of the Government, of the consequent inflammation of all the popular passions, and of the mad attempt to suppress them by new severities, that, in the course of eighteen years, without any settled plan of oppression, or perhaps any original purpose to oppress, the Presbyterians, who formed the most numerous, industrious, intelligent, and moral part of the Scottish nation, had reached that state in which, according to the calm judgment of an historian, very favourable to the House of Stuart, when speaking of their intention to emigrate, '*any condition seemed preferable to the living in their native country, which, by the prevalence of persecution and violence, was become as insecure to them as a DEN OF ROBBERS.*'†

The instruction afforded by this part of history is not confined to religious fanaticism, nor to the reign of Charles II. It is applicable to the prevailing opinions and predominant passions of a people, whatever their source or their nature may be.

* Hume, *ut supra*. Chap. vii.

† *Id. ibid.* These quotations are from the second volume of the quarto edition of Mr Hume's *History of the Stuarts*, London, 1757.

It illustrates the inevitable consequence of the first departure from liberal policy, and the ultimate result of measures which are designed to extinguish opinions by force and fear. The opinions and the enthusiasm of the nineteenth century are different from those of the seventeenth. But opinions, whatever they may be, cannot be altered by violence; and no species of enthusiasm can be subdued by cruelty. It should never be forgotten, that the misgovernment of Charles II., which had these dreadful results in Scotland, was such, that men not wanting in virtue might have been led into it by intolerant principles; that timidity, and the influence of connexion, with no more than the ordinary proportion of selfishness, might have kept some long engaged in it; and that a few, despairing of retreat, supported by the pride of consistency, incensed by new provocations from their opponents, and grown obstinately wedded to that power for which they had made shipwreck of conscience, might persist so long as to become at length real and execrable tyrants.

It is certainly very unfortunate that the manuscript now published should end at the very time when the author's means of information became more ample. It would be in the highest degree desirable to possess the sequel of the *Memoirs*. The trial of the Earl of Argyll; the administration of the Duke of York in Scotland, which deeply affects the personal character of that prince; the real or supposed correspondence of the English patriots with the Scotch Presbyterians; the factions which divided the Scotch Government under James II.; the nature and motives of the opposition in Parliament to the repeal of the penal laws; the landing, defeat, and death of Argyll; the dismissal of Mackenzie from office, and his return, after too short an interval, and too little change of circumstances, to justify us in ascribing his conduct to consistent principles; are all curious, and some of them are not well understood parts of Scottish history. We have reason to be certain, that Mackenzie would not have been successful in justifying his own measures. His attempts, both in this volume and in his '*Vindication*,' to justify the proceedings against Mitchell and the Earl of Argyll, sufficiently show the impossibility of the undertaking. In the first case, he does not even venture to deny, although he affects insensibility to the shameful but certain truth, that Mitchell had confessed his crime to the Privy Council on a promise of life; that when the confession was afterwards given in evidence against him, he urged the promise in his defence; that the Primate, the Chancellor, and two other Cabinet Ministers, then denied that promise on oath; that he offered to prove it by the books of Privy Council, which con-

tained the promise; that they were refused; and that he was executed. The Earl of Argyll was convicted of high treason for an explanation of a test-oth taken by him, in which he used the following words, 'I declare that I do not mean to bind up myself, *in my station, and in a lawful way*, to wish and endeavour any alteration I think to the advantage of Church or State, *not repugnant to the Protestant religion, or to my loyalty.*' ‡ In a supplementary explanation he adds, after 'way,' these almost unnecessary words, 'Disclaiming all unlawful endeavours; and he declares that, by 'my loyalty, I understand no other thing than the words plainly bear, to wit, the duty and allegiance of all loyal subjects.' Will it be believed that Sir G. Mackenzie, ten years after the trial, attempts to cover the guilt of himself and his accomplices, by leaving out the essential words above printed in italics, and argues upon the explanation thus mutilated, that it was meant as a reservation of a right to enter into future rebellious! *

A history of the revolution in Scotland, and an account of the character of the Jacobite hero Dundee, from the hand of a man of so great talent as Mackenzie, would probably be the most interesting part of the hitherto undiscovered manuscript. His genius, which, as we see in the case of Mitchell, is subdued by the recollection of his own misdeeds, might recover its energy in relating his courage in adversity, and his fidelity to an unfortunate Sovereign. Virtue and misfortune might have restored dignity to his mind. He was not by nature cruel, though ambition and subserviency made him the instrument of a cruel tyranny. In the very worst times we find some traces of moderation, and even kindness, in his conduct. Had we seen his account of the last stage of his life, when he acted as the brave and faithful adherent of a fallen party, we might close our acquaintance with more of those feelings which we should wish to entertain for a man whose name is the most brilliant, except that of Arbuthnot, † in the long and dark period of the literary history of Scotland, which extends from the age of Buchanan to the age of Hume.

‡ Howell's State Trials, VIII. 886-891.

* Mackenzie's Works, II. 348.

† Perhaps it is a needless caution to name Arbuthnot. The particulars of his life are little known; a circumstance which does more honour to his own modesty than to the feelings of his relations or to the gratitude of his country. But to his long residence in England he must have been indebted for that command over familiar language without which there can be no pleasantry. In this respect he is an English writer.

ART. II. *Abstract of the Information laid on the Table of the House of Commons, on the Subject of the Slave Trade, being a Report made by a Committee specially appointed for the purpose, to the Directors of the African Institution, on the 8th May 1821, and by them ordered to be printed, as a Supplement to the Annual Report of the present year.* 8vo. pp. 180. London, Ellerton. 1821.

THE French ship *Le Rodeur*, of two hundred tons burden, sailed from the port of Havre for the river Calabar on the coast of Africa, where she arrived after a prosperous voyage, and anchored at Bonny on the fourteenth of March. Her crew, of twenty-two men, had enjoyed perfect health; and this continued during her stay of three weeks, while she received on board one hundred and sixty negroes, with whom she set sail for Guadaloupe on the sixth of April. No traces of any epidemic had been perceived among the natives; the cargo (as it is called), no more than the crew, exhibited any symptoms of disease; and the first fortnight of the voyage to the West Indies promised a continuance of all the success which had seemed to attend the earlier stages of the expedition. The vessel had now approached the line, when a frightful malady broke out. At first the symptoms were slight, little more than a redness of the eyes; and this being confined to the negroes, was ascribed to the want of air in the hold, and the narrow space between the decks, into which so large a number of those unhappy beings were crowded; something, too, was imagined to arise from the scarcity of water, which had thus early begun to be felt, and pressed chiefly upon the slaves; for they were allowed only eight ounces, which was soon reduced to half a wine glass per day. By the surgeon's advice, therefore, they were suffered, for the first time, to breathe the purer air upon the deck, where they were brought in succession; but many of these poor creatures being affected with that mighty desire of returning to their native country, which is so strong as to form a disease, termed *Nostalgia* by the physicians, no sooner found they were at liberty, than they threw themselves into the sea, locked in each other's arms, in the vain hope, known to prevail among them, of thus being swiftly transported again to their homes. With the view of counteracting this propensity, the Captain ordered several who were stopt in the attempt, to be shot or hanged in the sight of their companions; but this terrible example was unavailing to deter them; and it became necessary, once more, to confine them entirely to the hold.

The disease proved to be a virulent ophthalmia, and it now spread with irresistible rapidity among the Africans, all of whom were seized; but it soon attacked the crew; and its ravages were attended, perhaps its violence exasperated, by a dysentery, which the use of rain-water was found to have produced. A sailor who slept near the hatch communicating with the hold, was the first who caught it; next day a landsman was taken ill; and in three days more, the Captain and almost all the rest of the crew were infected. The resources of medicine were tried in vain; the sufferings of the people, and the number of the blind, were daily increasing; and they were in constant expectation that the negroes, taking advantage of their numbers, would rise and destroy them. From this danger they were only saved by the mutual hatred of the tribes to which these unfortunate beings belonged, and which was so fierce and inextinguishable, that, even under the load of chains and sickness, they were ready every instant, in their fury, to tear one another in pieces. But another alarm now seized the Frenchmen; one only of their number had escaped the disease; and if he too should be stricken blind, they could no longer hope ever to reach the shore. It had fared so with a Spanish ship which they had met on the voyage; every one of her crew had lost his eyes; and, having thus been obliged to abandon all direction of their course, they had pitifully entreated help of the French, who could neither spare any one to their assistance, nor make room for them on board their own vessel. That Spaniard, the *Leon*, has never since been heard of! and the Frenchmen, seeing the destruction that was inevitable, envied the fate which seemed more speedy and less miserable than their own.

The consternation now became general and horrid; but it did not preclude calculation; for, thirty-six of the negroes having become quite blind, *were thrown into the sea and drowned*, in order to save the expense of supporting slaves rendered unsaleable, and to obtain grounds for a claim against the underwriters. The survivors at length reached Guadaloupe on the 21st of June, in the most wretched condition. The only man who had escaped the disease, and had thus been enabled to steer the vessel into a port, caught it three days after their arrival. Thirty-nine of the negroes had become perfectly blind; twelve had lost an eye; and fourteen were blemished in a greater or less degree. Of the crew, twelve, including the surgeon, wholly lost their sight; the captain and four others became blind of one eye; and four were partially injured. On the 22d of October they returned to Havre. Early in the following year the vessel was again commissioned; and the command being again

intrusted to the same captain, she was once more sent to ravage the unoffending hamlets of Africa, unappalled by the signal vengeance wherewith Providence had so lately visited those enormous transgressions.

We have told this dismal and terrible story, withholding only the year and the authority. The reader may think that we have been going back to the times when the slave-trade flourished under the protection of the law in England and France; and that we have been citing from the writings of some political author, some advocate for the abolition. Not so. All these horrors darken the history of the year 1819; and the tale is almost all told incidentally by the scientific compilers of a Medical Journal. Yes—in 1819 it was that the *Rodeur* sailed from one of the most populous and busy seaports of France—landed the blighted fruits of her accursed adventure near the principal mart of the greatest French colony—returned to the well frequented shores of the mother country with the miserable remains of her guilty crew—and sent them forth into crowded cities, marked on their fronts with the mark which Divine justice had ordained, to make them the witnesses of their own guilt, whithersoever they might go!—in 1819—twelve years after England had forbidden the traffic—eight years after she had declared it a crime—and four years after France, first by law, and then by solemn treaty, had become a party to its positive, unqualified, immediate abolition.

The work from which these facts are taken regards the subject merely in a medical light, and records the circumstances as it would those of any other case in Nosology. It is the Number for November 1819, of the '*Bibliothèque Ophthalmologique, ou Recueil d'Observations sur les Maladies des Yeux, faites à la Clinique de l'Institution Royale des Jeunes Aveugles, par M. Guillie, Directeur General, et Médecin en Chef,*' &c. And the article upon the *Rodeur* is entitled, '*Observation sur une Blepharoblennorrhie Contagieuse.*' The circumstances respecting the slaves thrown overboard, and the subsequent fitting out of the second voyage, are taken from the petition of M. Marenas* to the Chamber of Deputies, presented on the 14th of June 1820.

* Since this was written, we find that the *first* edition of the *Bibliothèque* contained the statement respecting the slaves being thrown overboard; but some days after it was published, the Conductors printed a new one, omitting the mention of that fact, as unnecessary to the medical narrative, and as likely to expose them, and the persons from whom they had obtained their information, to annoyance

That the *Rodeur's* return to Havre should not have been well known there, with all the frightful details of her adventures, is utterly impossible. That those details, which in the month after were printed at Paris, should have been any secret there, is equally incredible. To say nothing of the crew, the

from the too powerful colonial party. This important circumstance was stated in the Chamber of Deputies, by that staunch friend and most able supporter of sound and enlightened principles, on this as well as all other subjects, Benjamin Constant. He produced a copy of the first edition of the *Journal*, from which the omission was ascertained. The following extract from his admirable speech, delivered on the 17th of last June, and published by himself, deserves the most serious attention.

‘ Messieurs, le vaisseau est nommé, le port d'où il est sorti est indiqué, le nom du capitaine est en toutes lettres, le chirurgien est ici, il s'appelle Maignan. Vous ne trouverez donc pas extraordinaire que je demande si, depuis dix-huit mois que le fait est public, le capitaine a été poursuivi, le chirurgien témoin oculaire a été interrogé ? J'ai lieu d'en douter, car, à la fin de 1820, on a équipé et réarmé le *Rodeur*, pour une expédition du même genre sous le même capitaine. Une autre circonstance que je vais vous dire corrobore mes doutes.

‘ Je tiens en main la Bibliothèque ophtalmologique, imprimée en Novembre 1819, avec le nom de l'auteur et de l'imprimeur ; on y trouve toutes les paroles que j'ai rapportées, et notamment le nom du capitaine et ces huit mots terribles : *Trente-neuf nègres ont été jetés à la mer*. Mais voici une autre Bibliothèque ophtalmologique, avec la même date, le même nom d'auteur et d'imprimeur. et le nom du capitaine et les mots terribles que vous venez d'entendre en sont retranchés. Je déclare que j'ai reçu le premier exemplaire qui contient ces mots, le jour même de sa publication. Le second exemplaire mutilé ne m'est parvenu que long-temps après. Aurait-on fait une seconde édition pour effacer les traces d'un crime atroce ? Je le croirais, car mon exemplaire est le seul que j'ai pu retrouver, et tous ceux qui avaient l'autre édition, refusaient de croire ce que je leur affirmais de la première.’

One fact only was wanting to complete this case, and it is furnished by M. Guille, the editor of the *Bibliothèque*, in a letter addressed by him, on the following day, to the *Courier Français*, from which we quote. He writes for the purpose of explaining the suppression mentioned by B. Constant. After complaining that a work purely medical should have been made the instrument of political discussions, he by no means denies the fact of having suppressed some details in his second edition ; but says he did so because a provincial *Journal* had, on the authority of the first statement, exaggerated the account. He chides B. Constant for having given way ‘ trop crûement au

captain, and, still more, the surgeon, carried about with him the proofs, or those traces which must have led to proofs of slave trading; and the surgeon himself was at Paris. Yet no steps whatever are taken to punish the offenders, or interrupt them in the enjoyment of their guilty profits; the owners divide their plunder, and quietly proceed to undertake a new enterprise of the same kind, which they are permitted to plan under the superintendence of the very person who had perpetrated the former.

Let the reader now endeavour, by some violent effort, to dismiss from his mind all the terrible particulars above set forth, and attend to the conduct of the French Government, when our Ambassador (as appears by the Parliamentary Papers, analyzed in the admirable Tract now before us) represented, on the 7th November 1819, that the French vessel *Le Rodeur*, of two hundred tons, had sailed from Havre, on a slave voyage, the spring before. The answer of the Minister of the Marine was, that the *Rodeur* had just arrived at Havre from St Thomas, and 'that he had directed the Commissary of the Marine at Havre to set on foot a strict inquiry respecting this vessel, and report the result to Government.' The result of this most rigorous investigation was communicated to the Ambassador on the 9th December, by M. Pasquier, minister for foreign affairs, in the following terms.

"I have the honour to enclose the extract of a deposition made by the Captain of the French vessel *Le Rodeur*, of Havre, on his return from the coast of Africa and the island of St Thomas. It is stated, in this document, that the Spanish and Portuguese vessels employed in the slave trade assume the name of such French ships as they fall in with at sea. Your Excellency will not fail to remark this circumstance, which may explain the frequency of the reports attributing to French vessels the infraction of the laws which prohibit this traffic."

'The following is the extract from the deposition of Captain Boucher, which was enclosed in the Baron Pasquier's letter.

"He had no knowledge in the river of any vessel either engaged in the slave trade, or stationed there for its prevention; but after

mouvement généreux de la philanthropie; expresses great horror at the notion of being accessory to any doctrines hostile to the tranquillity of his country (namely, abolition doctrines); and cites, as a proof of his good principles, that he had suffered, before the restoration, for his efforts in favour of Legitimacy. This letter is a pretty plain indication of the prevailing opinion as to what line the present ministers take on the slave trade. But the important part of Mr G.'s letter, is that in which he distinctly states that he had his information from the captain, surgeon, and sailors, who were his patients.

having left the river, he fell in with several Spanish and Portuguese vessels which he supposed to be slave-traders; which, however, he could not positively ascertain, having had no communication with them. On this subject, he remarks, that he learnt at St Thomas's, that the vessels of both these nations, whenever they fell in with any French ships, were in the habit of assuming the names of the latter instead of their own; but he is not aware of the motive of this proceeding." ' pp. 81, 82.

We believe that no one could, but for the names, imagine that this notable correspondence bore any reference to the case of the *Rodeur*, as described in the *Medical Journal*. Supposing nothing more whatever was known of the matter, than the intimation given in the Ambassador's letter of the 7th November, could any mortal have supposed it possible, that the Minister of the Marine, after his admission that the case demanded a 'strict inquiry,' and after setting that inquiry on foot by the subaltern agents in his own department, should rest completely satisfied with such a story as the Captain's, teeming with absurdity, and carrying falsehood on the face it, beyond even the accustomed measure in which it enters slave-trading concerns? The following remarks upon this subject are exceedingly judicious, and are far indeed from going beyond what the occasion calls for.

'It would be curious to trace all the steps of that "strict inquiry" which the Minister of the Marine set on foot in order to ascertain whether the complaint of the British Ambassador respecting the *Rodeur* was well founded: and it seems important to the character of the French Government to trace them; for it is manifest that nothing but a well-arranged system, designed to conceal the truth, and to protect delinquents, in the case of illicit slave-trading, could have prevented a complete development of the whole of this murderous transaction. It was on the 7th of November 1819, that Sir Charles Stuart first denounced the *Rodeur* as engaged in the slave trade. That vessel had reached Havre a fortnight before. The captain, the mate, the blind surgeon, and the blind crew, must then have been all upon the spot. The fact of their blindness must have been known at Havre, where they landed; and it is hardly to be supposed that all the sufferers, if questioned, would have been silent as to the causes of their loss of sight, and the circumstances attending it. Indeed, so little were they disposed to concealment, that within five weeks of the time of the vessel's arrival, the statement which has been given above had already been communicated to persons of distinction, men of science, at Paris (one of them the oculist of the Duchess d'Angoulême), by whom it was printed and published to the world. By what means, then, was the whole of this notorious affair so hidden from the view of the French Government, that they should think of Captain Boucher as a slandered individual, while the

details of his murderous voyage were fully known, in all their enormity, to the Parisian public? It would be most curious to know the precise steps by which the French Government, with a police proverbially active and penetrating, and with means of judicial interrogation so powerful and extensive, should have been so grossly practised upon in this instance, as to be kept in utter ignorance of what it so much beloved them to know. It highly concerns the honour of that Government, and especially of the Ministry of the Marine, to trace this mysterious system of fraud and falsehood to its source, and to pierce the veil which appears, from first to last, to have shrouded from its view those continued and disgraceful infractions of the national engagements, which stand so clearly proved to the view of all besides. What possible explanation could the captain and owners of the *Rodeur* have given of the object of a voyage from Havre to Bonny, and thence to St Thomas's, that was not illegal? No one purpose, except that of slave-trading, could by any possibility have been answered by such a voyage.

‘But it would further be important to know, what steps have been taken by the French Ministers, since this transaction has been forced upon their notice, to bring the delinquents to justice. Even supposing that the direct reference to it in the Petition of M. Morenas, presented to the Chamber of Deputies in June 1820, had been overlooked (although this is hardly possible, that Petition having evidently been the subject of anxious and minute consideration in the bureau of the Marine), yet it was communicated to them by Lord Castlereagh, with the same particularity with which it is detailed above, early in December 1820. What steps have since been taken? The *Rodeur*, her captain and owners, have now, it is said, a second voyage of the same description to answer for. Does, then, any doubt still hang on her former, or on her more recent destination? Are not the parties in the transaction known? Are not the proofs accessible? It concerns our own Government, it still more deeply concerns France, to have this matter thoroughly sifted.’ pp. 88—90.

Dreadful as are the scenes disclosed in the case of the *Rodeur*, there are even worse horrors in the Parliamentary Papers of which the abstract lies before us. In March 1820, the *Tartar*, commanded by Sir George Collier, boarded a French vessel, called *La Jeune Estelle* of Martinique, after a long chase. The captain admitted that he had been engaged in the slave-trade, but denied that he had any slaves on board, declaring that he had been plundered of his cargo. The English officers, however, observed that all the French seamen appeared agitated and alarmed; and this led to an examination of the hold. Nothing, however, was found; and they would have departed with the belief that the captain's story was a true one, had not a sailor happened to strike a cask, and hear, or fancy he heard, a faint voice issue from within. The cask was opened, and two

negro girls were found crammed into it, and in the last stage of suffocation. Being brought upon the deck of the *Tartar*, they were recognised by a person who had before seen them in the possession of an American who had died on the coast. An investigation now took place; and it was ascertained that they formed part of a cargo of fourteen slaves, whom the French captain had carried off by an attack which he and his crew made on the American's property after his decease. This led to a new search of the slave-ship for the other twelve, whom he was thus proved to have obtained by the robbery; when a platform was discovered, on which the negroes must have been laid in a space twenty-three inches in height, and beneath it a negro was found, not, however, one of the twelve, jammed into the crevice between two water casks. Still there were no traces of those twelve slaves; and the French captain persisted in his story, that he had been plundered by a Spanish pirate. But suddenly a most horrible idea darted across the minds of the English officers and men; they recollected that, when the chase began, they had seen several casks floating past them, which, at the time, they could not account for; but now, after the examination of the one which remained on board the *Jeanne Estelle*, little doubt could be entertained that those casks contained the wretched slaves, whom the infernal monster had thus thrown overboard, to prevent the detection that would have ensued, either upon their being found in his ship, or by their bodies floating exposed on the sea. The *Tartar* was now so far to the leeward, that it became impracticable to beat back again with the least chance of falling in with those casks.

The intimate connexion between slave-trading, and all the atrocities of a piratical life, has been remarked in every stage of the history of Africa. These Papers furnish recent instances of this, which but too plainly proves, that men are still injured, through it, to all the worst habits of violence and contempt for human life which marked its earlier periods.

“ In the month of September last, the *Sieur Lemoine*, master and owner of the schooner *L'Espoir*, or the *Bamboche*, left the Mauritius under English colours, shaping his course towards the coasts of Madagascar and of the Mozambique. He fell in with a Portuguese vessel, laden with negroes and gold dust. Añ eagerness and thirst of gain seized upon his soul: he run along-side of the Portuguese vessel, and immediately killed the mate by a musket-shot: having boarded her, he soon obtained possession of the vessel thus attacked; and his first questions were addressed to a Portuguese Colonel, aged 50, of whom he inquired where the money and gold dust were deposited. After this short interrogatory, Lemoine purposely stepped aside, and a man named *Reineur*, who was behind him, with

a pistol blew out the unfortunate Colonel's brains. But these crimes were not enough to satisfy their savage inhumanity. The master of the captured vessel, alarmed by the rapid succession of these massacres, threw himself overboard, in order to escape a more immediate death. Vain hope! the fury of Lemoine and his accomplices was not yet allayed. They pursued him in a boat, and, having soon overtaken him, they cut him on the head with a sabre. The unfortunate man, feeling himself wounded, caught hold, in order to support himself, of the boat in which his murderers were, who, profiting by this last effort of despair, had the dastard cruelty to run a sword into his throat, the point of which came out at the side of their victim: the body disappeared, and they returned on board fatigued, but not satiated, with murders! They shut up in the hold the remaining Portuguese sailors; and, after having taken off the rich cargo, they scuttled the ship, and sunk her with the crew they had thus shut up."

We have chosen these three cases, in order to give the reader a sample of what the papers before Parliament contain. We earnestly entreat the attention of the country to the further details upon this interesting subject, which the excellent abstract of the evidence places within every person's reach; and we shall not attempt any analysis of them, but content ourselves with adding a few statements of a more general nature respecting the conduct of the French and other governments, in evading the stipulations of the treaties now in force upon the abolition, and in conniving at such daring violations of their own municipal laws.

The connivance of the French ministry may be proved, both by showing that acts of slave-trading have been perpetrated in circumstances which necessarily disclosed their nature to the public, and by showing that so many acts of slave trading have been committed, as to render it hardly possible they should not be known, whatever might have been the circumstances attending them. The former kind of proof depends not upon the number of the acts; and the case of the *Rodeur* alone is decisive to show, that the Ministers were not inclined very narrowly to watch the African speculators, or very severely to punish them for the grossest infractions of the law. The facts, from their nature, must have been well known; and no steps whatever were taken to arrest the guilty in their course, or bring them to justice. But the same ministers are fixed with a knowledge of the slave-trading carried on almost under their own eyes, by the mere number of those transactions. In the beginning of 1820, far from being checked by the public statement of the *Rodeur's* proceedings, the traffic seems to have acquired new vigour. The coast is described as having 'swarmed with

French slave ships ; '—' the number of these (says a distinguished officer in the British Navy) now on the coast, is something incredible.' The naval officers there during the first *half of that year*, had examined between *twenty and thirty* vessels ascertained to be French ; and one of these officers afterwards found in the *Havannah* a still greater number of vessels under the French flag, either with slaves on board, or fitting out for new slave voyages. When the governor of Sierra Leone left that colony in July 1820, there were no fewer than five French slave ships engaged in the traffic at one point of the coast. It thus appears, that between fifty and sixty of those ships had been fallen in with by our cruisers in the course of half a year ; and many more must have been concerned in the traffic, which escaped all such observation. In the French colonies, nothing can be more undisguised than the arrival and the landing of the wretched crowds of human victims which these traders tear from the bosom of their country, and carry across the Atlantic ; the sales are openly announced to the publick by printed advertisements. In the cities of the mother country, as if capital did not flow fast enough into this channel by the ordinary arrangements of partnership, associations are formed, in the nature of joint-stock companies, to entice the smallest capitals ; and proposals are printed and circulated, with schemes of such adventures, detailing all the particulars of profit, risk, and loss.* When all these things have been going on without any interruption ; when the Ministers, in whose departments the information must needs have been obtained, rested satisfied with such mock inquiries as were instituted respecting the Rodeur ; when they alone are unable to trace guilt, of which no one but themselves doubt ; surely there is no want of charity in carrying our sentiments somewhat beyond a mere suspicion, that the effective servants of the French government do not second the just views of their Sovereign, and do not truly represent the opinion of the great and enlightened people whose affairs they administer.

But the French Ministry contend, that they have made attempts to execute the law ; and they give in a list of forty-one cases which, in the course of five years, have been the subject of immediate inquiries. The list has been examined, and the

* The flimsy disguise is adopted, of calling the slaves *Mules* ; but the place where they are to be bought is mentioned in plain terms, '*the coast of Africa* ;' they are to be carried to the '*West Indies*' for sale ; and the money, and every other particular, is mentioned by its right name.

following is the result. In twenty-four cases, the inquiry is admitted to have proved abortive; seven or eight vessels have been acquitted; one, alleged to have been English, was given up to the Governor of the Mauritius; three, in the same predicament, are stated to have been confiscated; and of the remaining five or six French vessels, it does not appear from the statement that more than three have been finally condemned. An examination of the cases where the inquiry wholly failed, shows most distinctly in what spirit it was pursued. Thus, the *Deux Sœurs* of Honfleur being charged with carrying slaves to Martinico, the Minister writes, in 1819, to Havre, (not to Honfleur), and to Martinico, Gaudaloupe, Senegal, and Cayenne. In two years, answers, saying she had not put in there, are received from Martinico and Guadaloupe, and none from Havre. No attempt seems to have been made to ascertain the ownership, though in England it is perfectly well known to whom she belonged; and the common trade and shipping lists published in the French papers, enable us to trace the whole history of her voyage between Honfleur, Africa, and the West Indies. The other cases have been *investigated* in exactly the same manner; but the *Rodeur* is in the list; and after what we have seen of the evidence so easily obtained respecting that vessel, the inefficacy of the inquiries made by the Minister is truly astonishing. It is stated, that the Minister had written to Havre respecting her, upon a suspicion entertained that she was fitting out for the slave trade in 1820, and that no answer had been returned; but an additional charge is mentioned, of her having in 1819 traded in slaves; and it is merely said, that directions had been given to examine whether there were grounds for proceeding against her, and that the papers were under consideration. Let it be recollected that, in November 1819, seven months before the date of this statement, the whole of the horrible case had been published to all the world, in the *Bibliothèque Ophthalmologique*; and that the captain, surgeon, and many of the blind crew, had been openly going about in Paris, as well as in Havre, whither the vigilant and efficient Minister had addressed his inquiries, and from whence he had received no answer. These facts speak for themselves, and supersede the necessity of any further comments. With respect to the four vessels said to have been given up or confiscated, and alleged to have been English, official copies of the proceedings in two only of the cases have reached our Government; and the English flag in both of these appears to have been used for the temporary purpose of escaping the French cruiser who chased them. The owner of one of them was a Frenchman, residing

at the Isle of Bourbon, who disavowed the act of his captain, and the other had been piratically seized by that captain. Of the vessels acquitted, one at least, the *Sylphe*, was immediately after fitted out for the coast; taken with near 400 slaves on board; and, being brought into Sierra Leone, was clearly proved to have landed in her last voyage 300 at Guadaloupe, for which she had been acquitted.

So much for the *inquiries* of the French Minister. But the case does not rest even here; the British Ambassador has been constantly making representations, and transmitting, from time to time, not only suggestions, but detailed information respecting the infractions of the law so shamefully carried on. And the Parliamentary papers contain too many proofs that those representations have neither been received, nor acted upon in the spirit which dictated the abolition, and which actuates the French nation in its behalf. Thus, Sir C. Stuart having communicated to the French Minister, the fact ascertained by the British Admiral, of a vessel having imported 500 slaves into Martinico, the sale of whom was immediately advertised, both in the publick papers of the island, and by printed handbills; with this addition from the same official quarter, that several other slave ships were expected both there and at Guadaloupe, and that similar complaints had been made by the Governor of Dominica; the Minister evinced, by his answer, that he took offence at the information being transmitted to him. He stated, 'that he saw, with regret, that the constant repetition of remonstrances on this subject, implied a doubt of the sincerity of the French Government, which he did not think their conduct had warranted: and that the same vigilant attention on the part of French agents to the British colonies, and particularly to the Isle of France, might, he was sure, lead to the discovery of infractions of our laws respecting this trade, which we should find it difficult to justify.' To a subsequent complaint against five ships, no answer appears to have been given. On one occasion, during the very busiest period of the traffic, the Minister of Marine thinks it a good answer to all the facts stated, and all the suspicions which the details known in his department *must* have created, to say, that 'he is positively assured that no slave trade adventure whatever has taken place in our ports; the orders which have just been renewed, and the measures which have recently been adopted, render it *certain* that at *no* period *can* any French vessel be engaged in the traffic.' Soon after, however, more details having arrived of French slave-trading being practised as much as ever, in despite of all these impossibilities and certainties, the Minister of Ma-

rine, M. Molé, early in 1818, admitted that the Government had made inquiries, the result of which proved the correctness of the information conveyed by our Ambassador; and the Minister for Foreign Affairs commenced a discussion with the latter, upon the best means of checking such illegal acts. This led to no satisfactory result; and the proper spirit in which it had been begun soon gave way to the tameness originally shown upon the subject, as often as it was broached, and a futile, and not very ingenuous attempt, to divert our attention from the charge brought against the French contraband, by alleging some vague and unauthenticated facts of English slave trading, without specifying any particulars which could facilitate inquiry, or lead to detection. In one instance, however, the name of the vessel being given, the Committee of the African Institution sifted the matter to the bottom; found where she had landed, and with what goods she was laden; and proved to demonstration, by accounting for every ton of her bulk and cargo, that she could not, by possibility, have been engaged in any but the innocent trade with the coast. The details are given at length in pp. 98 and 99 of the Tract before us; and we shall not here insert them: But the following passage is well worthy of attention, as most satisfactorily exposing another of the shifts to which the present Minister of Marine, M. de Portal, has recourse to evade the urgent demands of justice, and throw off his own administration a blame which cannot rest any where else.

‘ The French Minister specifies no facts, and deals only in vague charges. “ The infraction of the law,” “ in some instances,” he says, “ had been the result of mercantile arrangements for the employment of English capital.” Again; “ The insurance offices in London continue to insure, at so much a head, the passage of slaves, under flags of all nations, from the coast of Africa to the West Indies;” and, “ so long as the system of secret insurances of slave-ships shall prevail in England,” &c. no measure can be effectual. Now, is it not most extraordinary, that, during the six years which have elapsed since the commencement of these discussions, the French Ministers, although they have continued to prefer the same loose accusations, as a kind of set-off to the specific facts stated by Sir C. Stuart, have never yet produced a single instance, either of British capital having been employed in carrying on a slave-trade nominally French, or of an insurance of a slave-voyage under the flag of any nation having been effected in London? As for such insurances having been effected by the “ *Insurance Offices*” of London, the thing is impossible. There are only two such offices in London, the Royal Exchange Assurance Company, and the London Assurance Company; and the affairs of both corporations are conducted with a de-

gree of publicity, and under circumstances, which preclude the possibility of their being concerned in a base and criminal transaction of this nature. But why do not the accusers specify instances? They affirm the fact, and even state that the insurance offices insure slaves "at so much a head." Why do they not afford some clue to the detection of these alleged acts of criminality? If they will but do this, they may be assured there will be no want of zeal and perseverance in this country to bring upon the delinquents the punishment they deserve.

And here it is somewhat provoking to find the French Minister pleading as a reason for delaying in France the measures required for repressing the slave-trade, that the British Legislature must first pass an act for preventing the secret insurance of slave-ships. Was he not then aware, that, by the laws of this country, such insurance is already a crime of an infamous character, and, if discovered, severely punishable, whether it is effected openly or secretly?

But the Baron Portal observes, that "since the first mischief is to be traced *exclusively* to British subjects, he must look to the British Legislature to find an adequate remedy." If the question were not so serious, there would be something irresistibly amusing in the dexterity with which he thus turns the tables upon this country. With not one fact to substantiate the charge of British participation in the slave-trade carried on under the flag of France, and with endless proofs of the extent and cruelty of that traffic, he at once relieves France from all its responsibility and all its guilt; and transfers both by a word to Great Britain. "It is to be traced," he says, "*exclusively* to British subjects." Why then is it not so traced? Without doubt there are vile miscreants belonging to this country, as well as to France, who would be ready to aid the slave trade, either by insurances or otherwise, if they could do it with impunity. But it seems a very inadequate reason why France should forbear to prevent and punish the open infraction of her own laws, and of her own solemn treaties, by her own subjects, that she has some vague suspicion that the criminals are secretly aided and abetted by subjects of Great Britain. Would the same considerations operate in the case of theft, or robbery, or murder, or conspiracy against the State? The Ministers of France have a right indeed to point out wherein the laws of Great Britain, as they relate to the Abolition, are defective; and if the deficiency so specified should be found to exist, then to complain of its not being supplied. They would have still greater reason to complain, if, after having pointed out specific instances of the violation of the existing laws, the perpetrators of them should continue to enjoy perfect impunity. But they do not pretend to have any such instances to allege. And as for the insurance of slave-voyages, whether British or foreign, it has, ever since the passing of the Abolition Act, been severely punishable in this country; both in those who insure them, and in those who cause the insurance to be effected.' pp. 96-99.

We trust that these most irrefragable and powerful remarks may find their way to the right quarter, and stimulate the French Legislature to insist upon the servants of the executive government at length performing the duty which they owe to their master and their country, whose honour and whose highest interests are deeply involved in the transactions we have been contemplating. Of the prevailing opinion upon this subject all over France, we believe no doubt can be entertained; that the Chambers faithfully represent it, we are most anxious to believe; and we fondly hope to see them increase their claims to public respect, by vigorously pursuing a subject second in importance to none that has ever occupied their attention. The Ultra party may vainly expect to strengthen itself by courting the remains of the old colonial interest, or by conciliating the mercantile speculators, whose conduct reflects such disgrace upon their age and nation; or personal feelings and private connexions may induce certain ministers to forget the honour of their Sovereign and their country, as well as betray the high trust they hold for the behoof of humanity at large; but these are not the times when so short-sighted a policy can prosper, nor is a State like France the place fitted for its display; the age is far too enlightened, the people too virtuous and too well informed. They assuredly will not bear any longer the stain which must rest upon the national honour, if the French flag shall continue alone to protect the illegal slave traffic both of French subjects, and violators of the law in foreign countries—alone to enjoy the opprobrious distinction, at least on this side the Equator, of screening from detection the wretches who still drive that guilty commerce.

The remedy for these evils appears not to be of difficult application. As far as regards the trade carried on by French subjects, a law declaring it to be a *crime*, and affixing to it an infamous *punishment*, would unquestionably produce the most salutary effect. The Felony Bill in England is known to have done so; and even if the same slowness to carry the law into execution were to continue among the members of the French executive government, the risk of being punished as common malefactors would certainly prevent many of the persons from engaging in it who now regard the chance of confiscation as so remote, that it hardly affects their calculation of gain, and who are, at all events, secure of suffering nothing beyond a diminution of their profits. The most effectual preventive, however, and the only one which can check the foreign Slave Trade that shelters itself under the French flag, is the establishment of a right of search, to be exercised reciprocally by France and England, and guarded from abuse by judicious regulations.

To the exercise of this right of search, we are well aware that objections may be urged; and some staunch friends of the abolition in France appear inclined to give way to them. But surely the perfect reciprocity of the proceeding is a satisfactory answer to them all. England harbours not a thought of visiting the ships of any power which shall not have the self-same right to visit her's; and surely the French traders cannot take umbrage at their government suffering them to be examined by our sailors, or rather our naval officers (for the search would be confined to officers of a superior rank), when they know that every British vessel would be liable to the same search by French seamen. The odium, however, we admit, that has been cast upon this proceeding, is not much to be wondered at. A bad name has been attached to it from the exercise of a right in time of war, somewhat similar, but, though called by the same name, differing in one most essential particular. For although, in war, the belligerent always admits to the neutral with whom the question arises, that the right is mutual, the neutral knows full well that the case in which he can exercise it is one of possibility merely, and may very likely never occur; so that he is required to undergo a certain and present inconvenience, upon a mere assurance that, in a remote and very uncertain event, he may be allowed to inflict the same inconvenience on the other party. Thus, it is very unlikely that Denmark or America should be at war, and England be neutral; yet, until that happens, the reciprocity of the search actually exercised by our cruisers on Americans and Danes, must continue to be speculative and hypothetical. Accordingly, neutrals always feel this; they not only know that they are suffering and submitting without any certainty of a return, but they cannot help suspecting that England is insincere in her professions of readiness to be searched in her turn; that she only makes those professions for the sake of her immediate interest, and to preserve some consistency in the argument; and that she does so, because she safely may, while the chance of her sincerity ever being put to the test is so very distant. But the search, or visit, now contended for, is very different; its reciprocity is in all respects complete; both parties stand in precisely the same circumstances; and each submits, at the present moment, to the very same superintendence which it exercises over the other. Let us hope that this consideration, and the reflection that no other effectual means can be devised of attaining the object, will smooth the way to the adoption of the arrangement proposed.

Upon this question, equally delicate and important, it is with

peculiar satisfaction that we consider how powerful must be the authority and the influence of the line pursued by the American States; not only from the just weight of that great and free nation, but from the very natural prejudices entertained by it against the belligerent right of search. The immortal honour which the Americans have gained by their former exertions against the slave trade, augmented by their recent enactments, classing it among piratical offences, will soon, as it now appears, be consummated, by their accession to the principle for which we have been contending. A report lies before us, from a Committee of Congress upon this point; and nothing can be more judicious or more enlightened. The perusal of it may well make those of our countrymen blush who pass their lives in effeminate railing at their kinsmen in the New World, and who seem to delight in nothing so much as the very rational hope, that the jealousies of the two nations may be fanned by such means into fierce and implacable hostility, at the time when each can the least afford to lose the other's assistance. The Committee begin with showing, that 'a mutual right of search is indispensable to the great object of Abolition,' as affording the only security against our slave traders taking refuge under the flag of any one power, which should at any time become less vigilant than the rest in executing its Abolition laws. They then advert to the prejudices existing in America against this right, founded upon 'the opinions entertained respecting the practice of searching neutral vessels in time of war;' and they deny that the two kinds of search are, 'in principle, in any degree allied;' and most justly observe, that the unqualified admission of England, that no right, whatever at present exists of searching in time of peace, an admission both founded upon the decisions of our Prize Courts, and evinced by the negotiation itself, ought at once to remove the principal objections against the new arrangements contended for. They put the matter upon a plain and practical ground, when they add, that the question simply is, 'whether such an agreement will be beneficial to the two nations;' and they truly add, that all inconvenience from detention of vessels will be precluded, by limiting the right of seizure alone to ships having slaves actually on board. The Report then proceeds in the following manner; and, we believe, a more gratifying example of sound principle never was displayed in any State paper.

'The feelings of this country (America) on the general question of search, have often been roused to a degree of excitement that evince their unchangeable character; but the American people will readily see the distinction between the cases; the one, in its exercise to the

extent claimed, will ever produce irritation and excite a patriotic spirit of resistance; the other is amicable and charitable: the justness and nobleness of the undertaking are worthy of the combined concern of Christian nations.

‘ The detestable crime of kidnapping the unoffending inhabitants of one country, and chaining them to slavery in another, is marked with all the atrociousness of piracy, and, as such, it is stigmatized and punishable by our own laws.

‘ To efface this reproachful stain from the character of civilized mankind, would be the proudest triumph that could be achieved in the cause of humanity. On this subject, the United States having led the way, owe it to themselves to give their influence and cordial cooperation to any measure that will accomplish the great and good purpose; but this happy result, experience has demonstrated, cannot be realized by any system, except a concession by the Maritime Powers to each other's ships of war, of a qualified right of search. If this object was generally attained, it is confidently believed that the active exertions of even a few nations would be sufficient entirely to suppress the slave trade.’

The Report concludes as follows.

‘ The Committee, after much reflection, offer the following Resolution:—

‘ “ Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be requested to enter into such arrangements as he may deem suitable and proper, with one or more of the Maritime Powers of Europe, for the effectual Abolition of the African Slave Trade.” ’

The most sanguine hopes may therefore be entertained, that the question will be satisfactorily adjusted between the English and American governments. May we not then appeal to the body of our most enlightened European neighbours, and call upon them to stimulate their rulers not only to follow the example set by England and America in classing the slave-trade among heinous crimes, but to join them in that measure which, if those three great maritime powers adopt it, must speedily become the law of all nations? That the French people at large are prepared for such a step, there can be little reason to doubt. All their ablest statesmen have the most sound views upon this important question; and the remains of prejudice with respect to the means, when so generous an anxiety is entertained for the attainment of the object, must soon give way to the enlightened genius of the age; and certainly, what has passed in America, is calculated to assist in dispelling those prejudices beyond any thing we can conceive.

Our attention has, in this article, been confined to the portion

of the Parliamentary Papers which treats of the French slave-trade, as out of all comparison the most important in every point of view. Much to lament and to amend is, however, contained in the correspondence with Spain, Portugal, and the Netherlands; and it is to be hoped that our Government, acting under the control of the almost unanimous opinion upon this subject entertained both by Parliament and the country, will be enabled, before long, to obtain some more satisfactory arrangements with those three powers. The late Revolutions, and the establishment of a popular constitution in Portugal and Spain, afford additional grounds for such expectations.

ART. III. *The Family Shakespeare. In Ten Volumes 12mo. In which nothing is added to the Text; but those Words and Expressions are omitted which cannot with Propriety be read aloud in a Family.* By THOMAS BOWDLER Esq., F. R. S. & S. A. London. Longman, 1818.

WE have long intended to notice this very meritorious publication; and are of opinion, that it requires nothing more than a notice to bring it into general circulation. We are not ourselves, we confess, particularly squeamish about incorrect expressions and allusions; and in the learned languages especially, which seldom come into the hands of the more delicate sex, and can rarely be perused by any one for the gratification of a depraved taste, we have not been very anxious about the dissemination of castrated editions; but in an author of such unbounded and deserved popularity as our great Dramatist, whose volumes are constantly in the hands of almost all who can read of both sexes, it is undoubtedly of great consequence to take care that youth runs no risk of corruption in the pursuit of innocent amusement or valuable instruction; or rather, that no offence is offered to delicacy in the midst of the purest gratification of taste.

Now it is quite undeniable, that there are many passages in Shakespeare, which a father could not read aloud to his children—a brother to his sister—or a gentleman to a lady:—and every one almost must have felt or witnessed the extreme awkwardness, and even distress, that arises from suddenly stumbling upon such expressions, when it is almost too late to avoid them, and when the readiest wit cannot suggest any paraphrase, which shall not betray, by its harshness, the embarrassment from which it has arisen. Those who recollect such scenes, must all

rejoice, we should think, that Mr Bowdler has provided a security against their recurrence; and, as what cannot be pronounced in decent company cannot well afford much pleasure in the closet, we think it is better, every way, that what cannot be spoken, and ought not to have been written, should now cease to be printed.

We have only farther to observe, that Mr Bowdler has not executed his task in any thing of a precise or prudish spirit; that he has left many things in the text which, to a delicate taste, must still appear coarse and reprehensible; and only effaced those gross indecencies which every one must have felt as blemishes, and by the removal of which no imaginable excellence can be affected. It is comfortable to be able to add, that this purification has been accomplished with surprisingly little loss either of weight or value; and that the base alloy in the pure metal of *Shakespeare* has been found to amount to an inconceivably small proportion. It is infinitely to his credit that, with the most luxuriant fancy which ever fell to the lot of a mortal, and with no great restraints from the training or habits of his early life, he is by far the purest of the dramatists of his own or the succeeding age,—and has resisted, in a great degree, the corrupting example of his contemporaries. In them, as well as in him, it is indeed remarkable, that the obscenities which occur are rather offensive than corrupting—and seem suggested rather by the misdirected wantonness of too lively a fancy, than by a vitious taste, or partiality to profligate indulgence;—while in Dryden and Congreve, the indecency belongs not to the jest, but to the character and action; and immodest speech is the cold and impudent exponent of licentious principles. In the one, it is the fantastic colouring of a coarse and grotesque buffoonery—in the other, the shameless speech of rakes, who make a boast of their profligacy. It is owing to this circumstance, perhaps, that it has in general been found easy to extirpate the offensive expressions of our great poet, without any injury to the context, or any visible scar or blank in the composition. They turn out not to be so much cankers in the flowers, as weeds that have sprung up by their side—not flaws in the metal, but impurities that have gathered on its surface—and that, so far from being missed on their removal, the work generally appears more natural and harmonious without them. We do not pretend to have gone over the whole work with attention—or even to have actually collated any considerable part of it: But we have examined three plays of rather a ticklish description—*Othello*, *Troilus and Cressida*, and *Measure for Measure*—and feel quite assured, from these specimens, that the work has been ex-

ecuted in the spirit, and with the success which we have represented.

Mr B. has in general followed the very best text—and the work is very neatly printed. We hope, however, that the publishers will soon be encouraged to give us another edition, on a larger letter. For we rather suspect, from some casual experiments of our own, that few *papas* will be able to read this, in a winter evening to their children, without the undramatic aid of spectacles.

ART. IV. *Œuvres Inédites de Madame la Baronne de Staël, publiées par son Fils; précédées d'une Notice sur le Caractère et les Ecrits de M. de Staël.* Par Madame NECKER SAUSSURE. Trois Tomes. 8vo. London, Treuttel & Würtz. 1820.

THIS posthumous publication makes us better acquainted with its illustrious author than any of the works which she has herself given to the world—and lets us more into her personal character than all that has yet been written about her. Nor do we say this so much with reference to the prefatory Memoir, or Eloge rather, which stands at the beginning, as to those productions of Mad. de Staël herself, which now make their first appearance. These consist of her first and her last writings—of the plays and poems in which she indulged her genius before she had imbibed the spirit of her age, or aspired either to rival or to replace its models—and of the pieces with which she amused her later retirement, with scarcely any view to publication, or which she did not survive to revise, with that deference to public opinion which always lowers the relief, and weakens the originality of the most intrepid of experienced writers. By far the most remarkable of these pieces, is one which she has entitled, though not quite correctly, *Dix Années d'Exil*. It contains the history of her persecutions under Bonaparte, and some of her observations on the countries which that persecution compelled her to visit. It is full of original and striking views of the character and policy of the extraordinary Person from whose hostility she suffered—not always very candidly conceived, perhaps, or very charitably expressed—but all bearing the distinct impress of genius and sincerity. The traits, indeed, of her own character that are thus unconsciously disclosed, in these little sallies of impatience and exaggeration, as well as in the details of the various proceedings which give rise to them, are among the most curious and interesting parts of the work; and if they

take something from our preconceived ideas of the uniform rectitude of her understanding, or the absolute dignity of her nature, this is far more than compensated by the proofs which they every where furnish of the kindness, honesty, and generosity of her dispositions. It even tends, perhaps, to set off her great gifts of genius and fancy, to find that she was sometimes rash and irritable; or, at all events, we more readily pardon her vast intellectual superiority, on discovering that she was not exempt from some little weaknesses of affection, and that her judgment, even on great men and great affairs, was liable to be somewhat perverted by considerations touching her personal comfort.

We are very much indebted to Madame Necker Saussure for her copious, elegant, and affectionate account of her friend and cousin. It is, to be sure, rather in the nature of a Panegyric than of an impartial biography—and, with the sagacity, morality, and skill in composition which seem to be endemic in the society of Geneva, has also perhaps something of the formality, mannerism, and didactic ambition of that very intellectual society. For a personal memoir of one so much distinguished in society, it is not sufficiently individual or familiar—and a great deal too little feminine for a woman's account of a woman who never forgot her sex, or allowed it to be forgotten. The only things that indicate a female author in the work before us, are the decorous purity of her morality—the feebleness of her political speculations—and her never telling the age of her friend.

The world probably knows as much already of M. and Madame Necker as it will care ever to know: Yet we are by no means of opinion that too much is said of them here. They were both very good people—neither of the most perfect *bon ton*, nor of the very highest rank of understanding,—but far above the vulgar level certainly in relation to either. The likenesses of them with which we are here presented, are undoubtedly very favourable, and even flattering; but still, we have no doubt that they are likenesses, and even very cleverly executed. We hear a great deal about the strong understanding and lofty principles of Madame Necker, and of the air of purity that reigned in her physiognomy; but we are told also that, with her tall and stiff figure, and formal manners, ‘il y avoit de la gêne en elle, et auprès d’elle;’ and are also permitted to learn, that after having acquired various branches of knowledge by profound study, she unluckily became persuaded that all virtues and accomplishments might be learned in the same manner; and accordingly set herself, with might and main, ‘to study the arts of conversation and of housekeeping—together with the characters of individuals, and the management of society; to reduce all these things to

'system, and to deduce from this system precise rules for the 'regulation of her conduct.' Of M. Necker, again, it is recorded, in very emphatic and affectionate terms, that he was extraordinarily eloquent and observing, and equally full of benevolence and practical wisdom; but it is candidly admitted, that his eloquence was more sonorous than substantial, and consisted rather of well rounded periods, than impressive thoughts; that he was reserved and silent in general society, took pleasure in thwarting his wife in the education of their daughter, and actually treated the studious propensity of his ingenious consort with so little respect, as to prohibit her from devoting any time to composition, and even from having a table to write at;—for no better reason than that he might not be annoyed with the fear of disturbing her when he came into her apartment! He was a great joker, too, in an innocent paternal way, in his own family; but we cannot find that his witticisms ever had any success in other places. The worship of M. Necker, in short, is a part of the established religion, we perceive, at Geneva; but we suspect the Priest has made the God here as in other instances; and rather think the worthy financier must be contented to be known to posterity chiefly as the father of Madame de Staël.

But however that may be, the education of their only child does not seem to have been gone about very prudently, by these sage personages; and if Mad. de Staël had not been a very extraordinary creature, both as to talent and temper, from the very beginning, she seems to have run a fair chance of being pretty well spoiled between them. Her mother had a notion, that the best thing that could be done for a child was to cram it with all kinds of knowledge, without caring very much whether it understood or digested any part of it;—and so the poor little girl was overtaken and overeducated in a very pitiless way for several years; till her health became impaired, and they were obliged to let her run quite idle in the woods for some years longer—where she composed pastorals and tragedies, and became exceedingly romantic. She was then taken up again, and set to her studies with greater moderation. All this time, too, her father was counteracting the lessons of patient application inculcated by her mother, by the half-playful disputations in which he loved to engage her, and the display which he could not resist making of her lively talents in society. Fortunately, this last species of training fell most in with her disposition; and she escaped being solemn and pedantic, with some little risk of becoming forward and petulant. Still more fortunately, the strength of her understanding was such as to exempt her almost entirely from this smaller disadvantage.

Nothing, however, could exempt her from the danger and disadvantage of being a youthful prodigy; and there never perhaps was an instance of one so early celebrated, whose celebrity went on increasing to the last period of her existence. We have a very lively picture of her, at eleven years of age, in the work before us; where she is represented as a stout brown girl, with fine eyes, and an open affectionate manner, full of eager curiosity, kindness, and vivacity. In the drawingroom, she took her place on a little stool beside her mother's chair, where she was forced to sit very upright, and to look as demure as possible: But by and by, two or three wise looking oldish gentlemen, with round wigs, came up to her, and entered into animated and sensible conversation with her, as with a wit of full age; and those were Raynal, Marmon-
tel, Thomas, and Grimm. At table she listened with delighted attention to all that fell from those distinguished guests; and learned incredibly soon to discuss all subjects with them, without embarrassment or affectation. Her biographer says, indeed, that she was 'always young, and never a child;' but it does seem to us a trait of mere childishness, though here cited as a proof of her filial devotion, that, in order to ensure for her parents the gratification of Mr Gibbon's society, she proposed, about the same time, that she should marry him; and combated, with great earnestness, all the objections that were stated to this extraordinary union.

Her temper appears from the very first to have been delightful, and her heart full of generosity and kindness. Her love for her father degenerated almost into idolatry; and though her taste for talk and distinction carried her at last a good deal away from him, this earliest passion seems never to have been superseded, or even interrupted, by any other. Up to the age of twenty, she employed herself chiefly with poems and plays;—but took after that to prose. We do not mean here to say any thing of her different works, the history and analysis of which occupies two-thirds of the *Notice* before us. Her fertility of thought, and warmth of character, appeared first in her Letters on Rousseau; but her own character is best portrayed in *Delphine*—*Corinne* shows rather what she would have chosen to be. During her sufferings from the Revolution, she wrote her works on Literature and the Passions, and her more ambitious book, in Germany. After that, with more subdued feelings—more confirmed principles—and more practical wisdom, she gave to the world her admirable *Considerations on the French Revolution*; having, for many years, addicted herself almost exclusively to politics, under the conviction which, in the present condition of the world, can

scarcely be considered as erroneous, that under ' Politics were ' comprehended morality, religion, and literature.'

She was, from a very early period, a lover of cities, of distinction, and of brilliant and varied discussion—cared little in general for the beauties of nature or art—and languished and pined, in spite of herself, when confined to a narrow society. These are common enough traits in famous authors, and people of fashion and notoriety of all other descriptions; but they were united in her with a warmth of affection, a temperament of enthusiasm, and a sweetness of temper, with which we do not know that they were ever combined in any other individual. So far from resembling the poor, jaded, artificial creatures who live upon stimulants, and are with difficulty kept alive by the constant excitements of novelty, flattery and emulation, her great characteristic was an excessive movement of the soul—a heart overcharged with sensibility, a frame over-informed with spirit and vitality. All her affections, says Mad. Necker,—her friendship, her filial, her maternal attachment, partook of the nature of Love—were accompanied with its emotion, almost with its passion—and very frequently with the violent agitations which belong to its fears and anxieties. With all this animation, however, and with a good deal of vanity—a vanity which delighted in recounting her successes in society, and made her speak quite familiarly, and without reserve, of her great talents, influence, and celebrity—she seems to have had no particle of envy or malice in her composition. She was not in the least degree vindictive, jealous, rancorous, or scornful; but uniformly kind, indulgent, compassionate and forgiving—or rather forgetful of injuries. In these respects she is very justly and advantageously contrasted with Rousseau; who, with the same warmth of imagination, and still greater professions of philanthropy in his writings, uniformly indicated in his individual character the most irritable, suspicious, and selfish dispositions; and plainly showed, that his affection for mankind was entirely theoretical, and had no living objects in this world.

Mad. de Staël's devotion to her father is sufficiently proved by her writings;—but it takes a new character in the Memoir now before us. The only injuries which she could not forgive, were those offered to him. She could not bear to think that he was ever to grow old; and, blinded herself to his progressive decay by her love and sanguine temper, she resented, almost with fury, every insinuation or casual hint as to his age or declining health. After his death, this passion took another turn. Every old man now recalled the image of her father; and she watched over their comforts, and wept over their sufferings, with

a painful intenseness of sympathy. The same deep feeling mingled with her devotions, and even tinged her strong intellect with a shade of superstition. She believed that her soul communicated with his in prayer, and that it was to his intercession that she owed all the good that befell her. Whenever she met with any piece of good fortune, she used to say, 'It is my father that has obtained this for me.' In her happier days, this ruling passion took occasionally a more whimsical aspect, and expressed itself with a vivacity of which we have no idea in this phlegmatic country, and which more resembles the childish irritability of Voltaire, than the lofty enthusiasm of the person actually concerned. We give, as a specimen, the following anecdote from the work before us. Mad. N. S. had come to Coppet from Geneva in M. Necker's carriage; and had been overturned in the way, but without receiving any injury. On mentioning the accident to Mad. de Staël on her arrival, she asked with great vehemence, who had driven; and on being told that it was Richel, her father's ordinary coachman, she exclaimed, in an agony, 'My God, he may one day overturn my father!' and rung instantly with violence for his appearance. While he was coming, she paced about the room in the greatest possible agitation, crying out, at every turn, 'My father, my poor father! he might have been overturned!'—and, turning to her friend, 'at your age, and with your slight person, the danger is nothing—but with his age and bulk! I cannot bear to think of it.' The coachman now came in; and this lady, so mild and indulgent and reasonable with all her attendants, turned to him in a sort of frenzy, and with a voice of solemnity, but choked with emotion, said, 'Richel, do you know that I am a woman of genius?'—The poor man stood in astonishment—and she went on, louder, 'Have you not heard, I say, that I am a woman of genius?' Coachy was still mute. 'Well, then! I tell you that *I am* a woman of genius—of great genius—of prodigious genius!—and I tell you more—that all the genius I have shall be exerted to secure your rotting out your days in a dungeon—if ever you overturn my father!' Even after the fit was over, she could not be made to laugh at her extravagance; but was near beginning again—and said, 'and what had I to conjure with but my poor genius?'

Her insensibility to natural beauty is rather unaccountable in a mind constituted like hers, and in a native of Switzerland. But, though born in the midst of the most magnificent scenery, she seems to have thought like Dr Johnson, that there was no scene equal to the high tide of human existence in the heart of a populous city. 'Give me the *Rue de Bae*,' said she, when

her guests were in ecstasies with the Lake of Geneva and its enchanted shores—‘I would prefer living in Paris, in a fourth story, with an hundred Louis a year.’ These were her habitual sentiments;—but she is said to have had one glimpse of the glories of the universe, when she went first to Italy, after her father’s death, and was engaged with *Corinne*. And in that work, it is certainly true that the indications of a deep and sincere sympathy with nature are far more conspicuous than in any of her other writings. For this enjoyment and late developed sensibility, she always said she was indebted to her father’s intercession.

Her friendships, though very numerous, are said to have been not only ardent, but remarkably constant; and yet she had a habit of analyzing the characters, even of those to whom she was most attached, with the keenest and most unsparing sagacity; and of drawing out the detail and the theory of their faults and peculiarities with the most searching and unrelenting rigour;—and this she did to their faces, and in spite of their most earnest remonstrances.—‘It is impossible for me to do otherwise,’ would she say;—‘If I were on my way to the scaffold, I should be dissecting the characters of the friends who were to suffer with me upon it.’ Notwithstanding this habit of never-ending scrutiny, she formed her judgments of men with great rapidity, and seldom materially changed them. ‘A man may be known,’ she would say, ‘in an hour—or in ten years.—No intermediate impressions are to be relied on.’ With all her enthusiasm, indeed, no one had ever a more piercing sagacity, or a clearer view into the character and conduct of her acquaintance. Her illusions were only with regard to the future:—She judged herself, too, with as much severity as her neighbours;—and if she was not insensible of her own great merits and attainments, she was certainly less indulgent to her faults than to those which she continually overlooked or apologized for in those around her.

The world is pretty generally aware of the brilliancy of her conversation in mixed company; but we were not aware that it was generally of so polemic a character, or that she herself was so very zealous a disputant,—such a determined intellectual gladiator as her cousin here represents her. Her great delight, it is said, was in eager and even violent contention; and her drawing-room at Coppet is compared to the Hall of Odin, where the bravest warriors were invited every day to enjoy the tumult of the fight, and, after having cut each other in pieces, revived to renew the combat in the morning. In this trait, also, she seems to have resembled our Johnson,—though, according to all

accounts, she was rather more courteous to her opponents. These fierce controversies embraced all sorts of subjects—politics, morals, literature, casuistry, metaphysics, and history. In the early part of her life, they turned oftener upon themes of pathos and passion—love and death, and heroical devotion; but she was cured of this lofty vein by the affectations of her imitators. ‘I tramp in the mire with wooden shoes,’ she said, ‘whenever they would force me to live always in the clouds.’ In the same way, though sufficiently given to indulge and to talk of her emotions, she was easily disgusted by the parade of sensibility which is sometimes made by persons of real feeling; observing, with admirable force and simplicity, ‘que tous les ‘sentiments naturels ont leur pudeur.’

But if we may trust Mad. N. S., the splendour of Mad. de Staël’s conversation in society was nothing to its fascination in private; and, though it does seem to us to be somewhat too highly coloured, we will not withhold her picture of it from our readers.

‘Dans le tête-à-tête, sa conversation étoit quelque chose d’inouï. Nul n’a pu la connoître hors de l’intimité. Ses plus belles pages, ses discours les plus éloquens dans la société sont loin d’égaliser par leur force entraînante ce qu’elle disoit, lorsque n’étant point obligée de se conformer aux dispositions de tel auditoire, elle agissoit sur un instrument unique, qu’elle même avoit accordé. Alors son grand esprit déployant ses ailes, prenoit librement son vol; alors elle ne se prévoyoit pas, et, témoin plutôt que maîtresse de sa propre inspiration, elle exerçoit une influence sur naturelle qu’elle paroissoit subir aussi; influence bien ou malfaisante, mais dont elle n’avoit pas la responsabilité. Tantôt animée d’une veuve amère et mordante, elle desséchoit d’un souffle de mort toutes les fleurs de la vie, et portant le fer et le feu au fond du cœur, elle détruisoit l’illusion des sentimens, le charme des relations les plus chères. Tantôt se livrant à une gaîté singulièrement originale, elle avoit la grâce ingénue et la confiance d’un enfant naïf qui est dupe de toutes choses; tantôt enfin s’élevant plus haut, elle s’abandonnoit à la sublime mélancolie du génie religieux qui pénètre le néant de l’existence terrestre.

‘Mais c’étoit auprès de ses amis malheureux qu’elle déployoit encore sa plus grande puissance. Entraînée par un sentiment rapide et profond, il sembloit qu’elle parcourût le ciel et la terre pour trouver du soulagement à leurs peines. Rien d’ingénieux, rien de bon comme ce qu’elle inventoit pour les distraire, pour éclaircir un moment les sombres nuages de la tristesse: elle paroissoit disposer de l’avenir et en créer un exprès pour eux, dans lequel, à force d’amitié, elle remplaçoit toutes choses.’ I. 229—230.

She gives a similar account of the charms of her familiar letters; very few of which, she says, have been preserved. In another place, however, it is observed, that in her maturer life

she took little pleasure in correspondence; and used to remark, that 'since she had aimed openly at distinction by her publications, she had ceased to take any trouble about her letters.'

She had at all times a deep sense of religion. Educated in the strict principles of Calvinism, she was never seduced into any admiration of the splendid apparatus and high pretensions of Popery; although she did not altogether escape the seductions of a more sublime superstition. In theology, as well as in every thing else, however, she was less dogmatic than persuasive; and, while speaking from the inward conviction of her own heart, poured out its whole warmth, as well as its convictions, into those of others; and never seemed to feel any thing for the errors of her companions but a generous compassion, and an affectionate desire for their removal. She rather testified in favour of religion, in short, than reasoned systematically in its support; and, in the present condition of the world, this was perhaps the best service that could be rendered. Placed in many respects in the most elevated condition to which humanity could aspire—possessed unquestionably of the highest powers of reasoning—emancipated, in a singular degree, from prejudices, and entering with the keenest relish into all the feelings that seemed to suffice for the happiness and occupation of philosophers, patriots, and lovers—she has still testified, that, without religion there is nothing stable, sublime, or satisfying; and that it alone completes and consummates all to which reason or affection can aspire. A genius like her, and so directed, is, as her biographer has well remarked, the only Missionary that can work any permanent effect on the upper classes of society in modern times;—upon the vain, the learned, the scornful and argumentative, 'who stone the Prophets while they affect to offer incense to the Muses.'

There is a kind of collection of miscellaneous sentiments and sayings mixed up with this biography, which does not seem particularly well selected;—our readers may like, however, to see a few specimens. She always disliked Bonaparte; and could not forgive him for the abuse he made of the most splendid opportunity of doing good and acquiring glory which fortune ever put into the power of an individual. Her love of Paris, however, made her cautious in the expression of her opinions. But with the instinct of self-interest, which never deserted him, he felt that her influence was hostile to him. 'She pretends to speak neither of politics nor of me,' he observed; 'yet I do not know how it happens, but people always like me less who have been with her. She gives them fanciful notions—and of the opposite kind to mine.' She never would join, however, in the base and ignominious cry that was raised upon his down-

fal, that he had neither talent nor courage. 'It would be too humiliating,' she said, 'for France, and for all Europe, that for fifteen years it had been beaten and outwitted by a coward and blockhead.' It is not fair, however, to attempt translating *bons mots*. We shall give the rest in the original.

'Étant en Angleterre en 1814, on crut devoir la féliciter sur la prise de Paris, qui terminoit son exil ; elle répondit à ces démonstrations de politesse : *De quoi me faites-vous votre compliment, je vous prie de ce que je suis au désespoir ?* C'est à dater de la bataille de Leipzig qu'elle a commencé à souffrir pour la France.—En 1815, lorsque Bonaparte étoit déjà entré à Lyon, une femme qui étoit attaché à ce parti, vint dire à madame de Staël : *L'empereur sait, madame, combien vous avez été généreuse pour lui, durant ses malheurs. J'espère, répondit-elle, qu'il saura combien je le déteste.*—Bonaparte lui ayant fait dire en 1815 qu'il falloit qu'elle revînt à Paris, parce qu'on avoit besoin d'elle pour les idées constitutionnelles, elle refusa, en disant : *Il s'est bien passé de constitution et de moi pendant douze ans ; et à présent même, il ne nous aime guère plus l'une que l'autre.*' I. 262-5.

The following, we think, is characteristic of both the parties ; and the latter part is a testimony worth considering.

'En 1816, M. Canning ayant choisi le salon du premier gentilhomme de la chambre au château des Tuileries, pour dire à madame de Staël : *Il ne faut plus se faire d'illusions, madame ; la France nous est soumise, et nous vous avons vaincu.* Oui, lui répondit-elle, *parce que vous aviez avec vous l'Europe et les Cosaques ; mais accordez-nous le tête-à-tête et nous verrons.* Elle a encore dit à M. Canning : *On trompe le peuple anglois ; il ne sait pas qu'on l'emploie à priver les autres peuples de la liberté qu'il possède, à protéger l'intolérance envers ses frères en religion ; s'il le savoit, il renieroit ceux qui abusent de son nom.*' I. 263-4.

Of the French Ministry she said in 1816—

'*Le parti ministériel voit le côté prosaïque de l'humanité, et l'opposition, le côté poétique. Voilà pourquoi j'ai toujours eu du penchant pour ce dernier genre d'opinions.*'—And after—'*Je ne l'aime pas, mais je le préfère. C'est une barrière de coton contre le retour des anciens abus, mais enfin c'est une barrière.*' I. 264-5.

Bonaparte behaved very shabbily to her about the large debt which was owing by the Government to her father. 'Un de ses agens lui avoit fait dire que l'Empereur la paieroit, si elle l'aimoit : *Je savois bien, répondit-elle, que pour recevoir ses rentes il falloit un certificat de vie, mais je ne savois pas qu'il fallût une déclaration d'amour.*' When the *Manuscrit de St Hélène*, in the composition or publication of which she has been absurdly supposed to have had some share, appeared in France, she was in her last illness ; but had it read to her, and said—

'*Les Chakéens adoroient le serpent, et les Bonapartistes en font*

de même pour ce manuscrit de Saint-Hélène ; mais je suis loin de partager leur admiration. Ce n'est que le style des notes du Moniteur ; et si jamais je me rétablis, je crois pouvoir réfuter cet écrit de bien haut. I. 266.

Her extreme susceptibility made her rather an indulgent, than a correct judge, of the works she admired. She would often be thrown into ecstasies by a wretched hand-organ in the street ; and had all her life a sort of organic delight in the melody of certain verses, altogether abstracted from any consideration of their sense. She recited them often with great pomp and emphasis ; and said, ' That is what I call poetry !—it is delicious ! '—and all the more that it does not convey a single idea to me. Yet she was so fond of original thoughts, that, if limited to three books, she said she would take the writings of Lord Bacon next to the Bible and her father's sermons,—on account of their great fertility. She took great delight in acting ; and played, it is said, with infinite talent and success, though not according to the strict rules of theatrical tactics. With that keen and penetrating sagacity which did not spare even herself, she observed, '*Qu'il y a toujours un peu de coquetterie dans les services que rendent les femmes, puisqu'elles cherchent ainsi à se faire aimer.*' I. 229-300.

Both her marriages have been censured ;—the first, as a violation of her principles—the second, of dignity and decorum. In that with M. de Staël, she was probably merely passive. It was respectable, and not absolutely unhappy ; but unquestionably not such as suited her. Of that with M. Rocca, it will not perhaps be so easy to make the apology. We have no objection to a love-match at fifty ;—but where the age and the rank and fortune are all on the lady's side, and the bridegroom seems to have little other recommendation than a handsome person, and a great deal of admiration ; it is difficult to escape ridicule,—or something more severe than ridicule. Mad. N. S. seems to us to give a very candid and interesting account of it ; and undoubtedly goes far to take off what is most revolting on the first view, by letting us know that it originated in a romantic attachment on the part of M. Rocca, and that he was an ardent suitor to her, before the idea of loving him had entered into her imagination. The broken state of his health, too—the short period she survived their union—and the rapidity with which he followed her to the grave—all tend not only to extinguish any tendency to ridicule, but to disarm all severity of censure ; and lead us rather to dwell on the story as a part only of the tragical close of a life full of lofty emotions. We subjoin the simple statement of her amiable and ingenuous biographer.

Un jeune homme bien né inspiroit beaucoup d'intérêt dans Ge-

nève par ce qu'on racontoit de son brillant courage, et par le contraste de son âge avec sa démarche chancelante, sa pâleur, et l'état de foiblesse auquel il étoit réduit. Des blessures reçues en Espagne, des blessures dont les dernières suites ont été funestes l'avoient mis aux portes de la mort, et il étoit resté malade et souffrant. Deux mots de pitié adressés par madame de Staël à cet infortuné, produisirent sur lui un effet prodigieux. Elle avoit quelque chose de céleste dans le langage. Madame de Tesse disoit : *Si j'étois reine, j'ordonnerois à madame de Staël de me parler toujours.* Cette musique ravissante renouvela l'existence du jeune homme ; sa tête et son cœur s'enflammèrent ; il ne mit point de bornes à ses vœux, et forma tout de suite les plus grands projets. *Je l'aimerai tellement*, a-t-il dit de très-bonne heure à un de ses amis, *qu'elle finira par m'épouser*, mot singulier que inspirer pouvoient divers motifs, mais que l'enthousiasme, le dévouement le plus soutenu obligent à interpréter favorablement.—De si hautes prétentions furent secondées par les circonstances. Madame de Staël étoit excessivement malheureuse et lasse de malheur ; son âme pleine de ressort tendoit à se relever, et ne demandoit qu'une espérance. Lors donc qu'au moment où sa captivité se resserroit de plus en plus, et où de sombres nuages s'annonçoient de toutes parts sur sa tête, un nouveau jour vint à luire pour elle, le bonheur, dans son cœur désolé, renaquit comme de ses cendres, et le rêve de toute sa vie, l'amour dans le mariage, lui sembla pouvoir se réaliser. On sait ce qu'une telle union étoit à ses yeux. Cette plaisanterie d'elle qu'on a citée : *Je forcerai ma fille à faire un mariage d'inclination* ; cette plaisanterie renfermoit une opinion sérieuse. Jamais la pensée de former elle-même de pareils nœuds ne lui avoit été complètement étrangère. En parlant de l'asile qu'elle espéroit trouver un jour en Angleterre, elle avoit dit quelquefois, *j'ai besoin de tendresse, de bonheur et d'appui ; et si je trouve là un noble caractère, je sacrifierai ma liberté.* Le noble caractère se trouva tout à coup près d'elle. Sans doute, elle auroit pu faire un choix mieux assorti, mais l'inconvénient des mariages d'inclination, c'est précisément qu'on ne choisit pas.—Toutefois il est certain que cette union l'a rendue heureuse. Elle avoit bien jugé l'âme élevée de M. Rocca : une tendresse extrême, une constante admiration, des sentimens chevaleresques ; et, ce qui plaisoit toujours à madame de Staël, un langage naturellement poétique, de l'imagination, du talent même, comme l'ont prouvé quelques écrits, de la grâce dans la plaisanterie, une sorte d'esprit irrégulier et inattendu qui excitoit le sien et mettoit de la variété dans sa vie ; voilà ce qu'elle a trouvé en lui. A cela se joignoient une profonde pitié pour les maux qu'il enduroit, et des craintes toujours renaissantes qui entretenoient son affection et enchaînoit sa pensée.—Elle eût sans doute mieux fait de choisir ce mariage, &c. I, 238-5.

Toutefois il ne lui a pas long-temps survécu. La douleur, l'insouciance pour ses jours, ont achevé de trancher cette courte existence.

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tinée. Il est allé mourir sous le beau ciel de la Provence, où un frère a recueilli ses derniers soupirs !' I. 237.

Like most other energetic spirits, she despised and neglected too much the accommodation of her body—she cared little about exercise, and gave herself no great trouble about health. With this sanguine spirit, which belonged to her character, she affected to triumph over infirmity; and used to say—‘ I might have been sickly, like any body else, had I not resolved to vanquish all physical weaknesses.’ But Nature would not be defied—and she died while contemplating still greater undertakings than any she had achieved. On her sickbed, none of her great or good qualities abandoned her. To the last she was kind, patient, devout and intellectual. Among other things, she said—‘ J’ai toujours été la même—vive et triste.—J’ai aimé Dieu, mon père, et la liberté.’ She left life with regret—but felt no weak terrors at the approach of death—and died at last in the utmost composure and tranquillity.

We would rather not make any summary at present of the true character and probable effects of her writings. But we must say, we are not quite satisfied with that of her biographer. It is too flattering, and too eloquent and ingenious. She is quite right in extolling the great fertility of thought which characterises the writings of her friend;—and, with relation to some of these writings, she is not perhaps very far wrong in saying that, if you take any three pages in them at random, the chance is, that you meet with more new and striking thoughts than in an equal space in any other author. But we get into a very *fade* sort of rhetoric, when she goes on to doubt, whether those same original thoughts are not too thick sown—and ‘ whether certain unmeaning phrases that we often meet with in composition, may not have their utility, and act upon the mind like the little bits of cloth which are put on the keys of a piano, to stop the vibration of one cord before another is brought into action.’ There is a more imposing passage, in which she endeavours to show, that she ought to be considered as the foundress of a new school of literature and philosophy—or at least as the first eminent disciple of a new and a grander era which is now opening on the world. The conclusion, which is all we can now afford to give, is as follows.

‘ En tout, les ouvrages de madame de Staël paroissent appartenir à des temps nouveaux. Ils annoncent, comme ils tendent à amener une autre période dans la société et dans les lettres; l’âge des passions fortes, généreuses, vivaces; des sentimens venant du fond du cœur. Elle a donné l’idée d’une littérature, en quelque sorte nouvelle, qu’écrivent, d’un genre dans lequel l’improvisation des idées

blées nationales pour la politique, l'abandon des confidences pour l'expression de la passion, et les saillies de conversation pour l'observation de la société, nous disent quelque chose de plus intime et de plus fort, que ne l'a jamais fait la rhétorique étudiée. — Ainsi l'art littéraire aura été relevé par elle. Ce ne sera plus une industrie oiseuse, un moyen de réveiller l'image d'une vaine beauté dans nos cœurs. Il tiendra de plus près à la vie, et y exercera plus d'influence; il offrira moins le travail de l'homme, que l'homme lui-même en rapport avec l'immortalité. Il sera l'expression générale des plus nobles vœux; le dépôt des pensées qui se réaliseront un jour dans des institutions ou des entreprises utiles, et l'avenir y existera tout entier.' I. 180, 181.

We are far from thinking that there is not both truth and talent in these observations. But they are true chiefly with regard to France; and those countries which derive their literature from her fountains—and can scarcely be admitted as at all applicable to the other parts of Europe, which have always drawn their wisdom, wit and fancy, from native sources. The truth is, that there is no civilized country where there has been so little originality for the last fifty years as France. In literature, their standards were fixed nearly a century ago; and to alter, or even to advance them, was reckoned equally impious and impossible. In politics, they were restrained, by the state of their Government, from any free or bold speculations; and in metaphysics, and all the branches of the higher philosophy that depend on it, they had done nothing since the days of Pascal and Descartes. In England, however, and in Germany, the national intellect had not been thus stagnated and subdued—and a great deal of what startled the Parisians by its novelty, in the writings of Mad. de Staël, had long been familiar to the thinkers of these two countries. Some of it she confessedly borrowed from those neighbouring sources, and some she undoubtedly invented over again for herself. In both departments, however, it would be erroneous, we think, to ascribe the greater part of this improvement to the talents of this extraordinary woman. The Revolution had thrown down, among other things, the barriers by which literary enterprise had been so long restrained in France—and broken, among other trammels, those which had circumscribed the liberty of thinking in that great country. The genius of Mad. de Staël cooperated, no doubt, with the spirit of the times, and assisted its effects—but it was also acted upon, and in part created, by that spirit—and her works are rather, perhaps, to be considered as the first fruits of a new order of things, that has already struck root in Europe, than as the harbinger of changes that still remain to be effected. We have dwelt too long, however, on her biogra-

phy; and must proceed to what these volumes contain of her own composition. The most remarkable, as we have already intimated, is the '*Dix Années d'Exil*'—and we shall first give some account of it.

The title is not very exact. Mad. de S. was first banished from France in 1802, and her narrative begins in 1800; and, though it ends in 1812, there is a blank from 1804 to 1810. The first part was written about 1810, and the latter after her arrival in Sweden in 1812; and being thus dictated under the immediate pressure of the sufferings which it records, it has naturally contracted a tone of bitterness and hostility which is not to be found in any other of her writings. A considerable portion of the observations and reflections which it contains, are repeated in her work on the Revolution; and it is not a little curious to compare the two editions, and to observe how the occasional asperity of the first is uniformly softened down, and its exaggerations retrenched, in the noble candour of the second. As it stands, however, it has perhaps something more of the truth and freshness of immediate impressions, and also something more of individual character. The staple of the work, of course, is politics;—but it presents three separate subjects for the meditation of its readers—the character and policy of Bonaparte and his immediate agents—the character of Mad. de Staël herself—and her remarks upon the countries she visits.

Of that remarkable Ruler she never entertained a favourable opinion;—and, long before his appointment as First Consul, had penetrated, she says, the secret of his bad ambition—his inherent aversion to liberty—his contempt for mankind, and that upon which it was founded—his disbelief in honest principle or disinterested virtue.

'Bonaparte croit que lorsque quelqu'un dit qu'il aime la liberté, qu'il croit en Dieu, qu'il préfère sa conscience à son intérêt, c'est un homme qui se conforme à l'usage, qui suit la manière reçue pour expliquer ses prétentions ambitieuses, ou ses calculs égoïstes. La seule espèce de créatures humaines qu'il ne comprenne pas bien, ce sont celles qui sont sincèrement attachées à une opinion, quelles qu'en puissent être les suites; Bonaparte considère de tels hommes comme des niais, ou comme des marchands qui surfont, c'est-à-dire, qui veulent se vendre trop cher. Aussi, comme on le verra par la suite, ne s'est-il jamais trompé dans ce monde que sur les honnêtes gens, soit comme individus, soit surtout comme nations.' III. 5, 6.

And afterwards—

'Ce qui caractérise le gouvernement de Bonaparte, c'est un mépris profond pour toutes les richesses intellectuelles de la nature humaine: vertu, dignité de l'âme, religion, enthousiasme, voilà quels sont, à ses yeux, les éternels ennemis du continent, pour me servir de

son expression favorite: il voudroit réduire l'homme à la force et à la ruse, et désigner tout le reste sous le nom de bêtise ou de folie. Les Anglois l'irritent surtout, parce qu'ils ont trouvé le moyen d'avoir du succès avec de l'honnêteté, chose que Napoléon voudroit faire regarder comme impossible. Ce point lumineux de monde a offusqué ses yeux dès les premiers jours de son règne.' III. 14.

The first public manifestation of her disfavour with the Government, proves rather the servility of the good company of Paris, and of her own select society, than the absolute tyranny of their ruler. M. B. Constant, who was one of her chief favourites, was a *tribun* in 1799, and had determined to make a speech in his place against the dawning ambition of the Consul. The night before, he found her in the midst of a brilliant circle of wits and agreeable people; and, observing how much she seemed to be delighted with their society, he took her aside, and said—'If I make my speech to-morrow, this pleasing scene must pass away.'—'Never mind,' she replied, 'we must do what is right.' The speech was spoken accordingly; and next night, before five o'clock, she had ten apologies; and at last sat down in the midst of an empty hall. In a few days Fouché, the Minister of Police, came to tell her that Bonaparte suspected her of having instigated M. Constant to make the independent speech in question. She exculpated herself; but proudly expressed her approbation of the sentiments contained in it, and defied Fouché to controvert them. What follows is admirable, both as a portrait and as a trait of the times.

'Il me fut aisé de m'apercevoir qu'il ne s'intéressoit guère à ces considérations générales: il savoit déjà très-bien que sous l'autorité de l'homme qu'il vouloit servir, il ne seroit plus question de principes, et il s'arrangeoit en conséquence. Mais comme c'est un homme d'un esprit transcendant en fait de révolution, il avoit déjà pour système de faire le moins de mal possible, la nécessité du but admise. Sa conduite précédente ne pouvoit en rien annoncer de la moralité, et souvent il parloit de la vertu comme d'un conte de vieille femme. Néanmoins une sagacité remarquable le portoit à choisir le bien comme une chose raisonnable, et ses lumières lui faisoient par fois trouver ce que la conscience auroit inspiré à d'autres. Il me conseilla d'aller à la campagne, et m'assura qu'en peu de jours tout seroit apaisé. Mais à mon retour il s'en falloit de beaucoup que cela fût ainsi.' III. 12.

In spring 1800, the publication of her work on Literature, and the departure of Bonaparte for the campaign of Marengo, brought her a little into fashion again. Her account of his deportment during that important battle is curious.

La bataille étoit désespérée, Bonaparte se promenoit lentement à

cheval, devant ses troupes, pensif, la tête baissée, *courageux contre le danger plus que contre le malheur* : n'essayant rien, mais attendant la fortune. Il s'est conduit plusieurs fois ainsi ; et il s'en est bien trouvé. Mais je crois toujours que s'il y avoit eu, parmi ses adversaires, un homme de caractère autant que de probité, Bonaparte se seroit arrêté devant cet obstacle. Son grand talent est d'effrayer les foibles, et de tirer parti des hommes immoraux. Quand il rencontre l'honnêteté quelque part, on diroit que ses artifices sont déconcertés, comme les conjurations du démon par le signe de la croix.' III. 19, 20.

On his return in triumph, he thought he might venture to disclose his designs a little more openly ; and got his brother Lucien to put forth a pamphlet, recommending, in a general way, the creation of a new dynasty of Sovereigns. It turned out, however, that this was a rash and premature experiment. The public took the alarm ; and it was necessary that Lucien should be disavowed and disgraced. All this, however, was in the system of his aspiring brother, which is thus strikingly described.

' Il faisoit répandre, comme bruit les résolutions qu'il avoit envie de prendre, afin d'essayer ainsi l'opinion. D'ordinaire même il avoit soin qu'on exagérât ce qu'il projetait, afin que la chose même, quand elle arrivoit, fût un adoucissement à la crainte qui avoit circulé dans le public. La vivacité de Lucien cette fois s'emporta trop loin ; et Bonaparte jugea nécessaire de le sacrifier, en apparence, pendant quelque temps.' III. 21, 22.

In the mean time, he began assiduously to practise those peculiarities of manner which had been understood to be peculiar to royalty, and to accustom the eyes of the people to the pomp and pretensions of a single sovereign. At a supper where Mad. de Staël was—and for which, she informs us, she took the trouble to prepare several smart repartees to the impertinences which she expected to be addressed to her—

' Le premier consul étoit debout derrière la chaise de madame Bonaparte, et se balançoit sur un pied et sur l'autre, *à la manière des princes de la maison de Bourbon*. Je fis remarquer à mon voisin cette vocation pour la royauté, déjà si manifeste.' III. 30.

The following sketch is more comprehensive.

' Cependant les institutions monarchiques s'avançoient à l'ombre de la république. On organisait une garde prétorienne ; les diamans de la couronne servoient d'ornement à l'épée du premier consul, et l'on voyoit dans sa parure, comme dans la situation politique du jour, un mélange de l'ancien et du nouveau régime ; il avoit des habits tout d'or et des cheveux plats, une petite taille et une grosse tête, je ne sais quoi de gauche et d'arrogant, de dédaigneux et d'embarrassé, qui sembloit réunir toute la mauvaise grâce d'un parvenu à toute l'audace d'un tyran. On a vanté son sourire comme agréable ; moi, je

crois qu'il auroit certainement déplu dans tout autre, car se sourire, partant du sérieux pour y rentrer, ressembloit à un ressort plutôt qu'à un mouvement naturel, et l'expression de ses yeux n'étoit jamais d'accord avec celle de sa bouche : mais comme, en souriant, il rassuroit ceux qui l'entouroient, on a pris pour du charme le soulagement qu'il faisoit éprouver ainsi. Je me rappelle qu'un membre de l'Institut, conseiller d'état, me dit sérieusement que les ongles de Bonaparte étoient parfaitement bien faits. Une autre fois un homme de la cour s'écria : " Les mains du premier consul sont charmantes. " — " Ah ! " répondit un jeune seigneur de l'ancienne noblesse, qui alors n'étoit pas encore chambellan, " de grâce, ne parlons pas politique. " III. 41.

The tone of his courtiers and favourites was not less assuming, and, in general, far more offensive.

' Un des aides-de-camp de Bonaparte se plaignoit de la familiarité de M. de C. ; il trouvoit mauvais qu'un des premiers seigneurs de la monarchie autrichienne lui serrât la main sans gêne. Ces nouveaux débutans dans la carrière de la politesse ne croyoient pas que l'aisance fût de bon goût. En effet, s'ils s'étoient mis à l'aise, ils auroient commis d'étranges inconvenances, et la roideur arrogante étoit encore leur plus sûre ressource dans le rôle nouveau qu'ils vouloient jouer. ' III. 28.

He began, too, at this time to confirm, or at least to display his power, by promoting indiscriminately, and often combining in office, the most outrageous Jacobins, and those who had been most devoted to the cause of royalty. The passion for place, it would appear, is at least as strong in France as in England ; and a munificent patron is at least as much in the habit of making converts from former professions.

' La grande force des chefs de l'état en France, c'est le goût prodigieux qu'on y a pour occuper des places : *la vanité* les fait encore plus rechercher que le besoin d'argent. Bonaparte recevoit des milliers de pétitions pour chaque emploi, depuis le premier jusqu'au dernier. S'il n'avoit pas eu naturellement un profond mépris pour l'espèce humaine, il en auroit conçu en parcourant toutes les requêtes signées de tant de noms illustres par leurs aïeux, ou célèbres par des actes révolutionnaires en opposition avec les nouvelles fonctions qu'ils ambitionnoient. ' III. 32.

The ancient nobility were rather shy at first of receiving promotion in the army and government of the Republic ; but as soon as the First Consul set on foot a sort of *Court*, they discovered that these were exactly the places for them, and were eager enough to obtain them. The following remark is striking.

Plusieurs nobles, ruinés par la révolution, se prêtèrent à recevoir des emplois à la cour. L'on sait par quelle injure grossière Bonaparte les remercioit de leur complaisance. " Je leur ai proposé, dit-

il, des grades dans mon armée, ils n'en ont pas voulu ; je leur ai offert des places dans l'administration, ils les ont refusées ; mais je leur ai ouvert mes *antichambres*—et ils s'y sont précipités." III. 98.

The murder of the Duc D'Enghien is noticed with great eloquence and severity. 'A la veille,' she observes very strikingly, 'de se faire couronner par les mêmes hommes qui avoient proscrit la royauté, de rétablir une noblesse par les fauteurs de l'égalité, il crut nécessaire de les rassurer par l'affreuse garantie de l'assassinat d'un Bourbon !' When all things were thus duly prepared, the scene of the assumption of the Empire was at last enacted. The following passage, we think, extremely interesting—and it shows, among other things, how little novelty there is in the pretexts by which usurpers have, in every age, sought to disguise their selfish and unprincipled ambition. The same deep and daring hypocrisy assumes almost the same forms and phrases in the mouth of Napoleon and of Cromwell ; and the following speech might be reported in a true history of our Protector, with no other addition than that of the fanatical cant, which was no longer necessary, for the purposes of his successor.

'Il fut convenu qu'on ouvreroit des registres dans toute la France pour que chacun exprimât son vœu, relativement à l'élévation de Bonaparte sur le trône. Mais, sans attendre ce résultat, quelque préparé qu'il fût, il prit le titre d'Empereur par un sénatus-consulte, et ce malheureux sénat n'eut pas même la force de mettre des bornes constitutionnelles à cette nouvelle monarchie. Un tribun, dont je voudrois oser dire le nom, eut l'honneur d'en faire la motion spéciale. Bonaparte, pour aller habilement au-devant de cette idée, fit venir chez lui quelques sénateurs, et leur dit : "Il m'en coûte beaucoup de me placer ainsi en évidence ; j'aime mieux ma situation actuelle. Toutefois, la continuation de la république n'est plus possible ; on est blasé sur ce genre-là ; je crois que les François veulent la royauté. J'avois d'abord pensé à rappeler les vieux Bourbons : mais cela n'auroit fait que les perdre, et moi aussi. Ma conscience me dit qu'il faut à la fin un homme à la tête de tout ceci ; cependant peut-être vaudroit-il mieux encore attendre. . . J'ai vieilli la France d'un siècle depuis quatre ans ; la liberté, c'est un bon code civil, et les nations modernes ne se soucient que de la propriété. Cependant, si vous m'en croyez, nommez un comité, organisez la constitution, et, je vous le dis naturellement, ajouta-t-il en souriant, prenez des précautions contre ma tyrannie ; prenez-en, croyez-moi." Cette apparente bonhomie séduisit les sénateurs, qui, au reste, ne demandoient pas mieux que d'être séduits. L'un d'eux, homme de lettres assez distingué, mais l'un de ces philosophes qui trouvent toujours des motifs philanthropiques pour être contens du pouvoir, disoit à un de mes amis : "C'est admirable ! avec quelle simplicité l'Empereur me laisse tout dire ! L'autre jour, je lui ai démontré pendant une heure

de suite qu'il falloit absolument fonder la dynastie nouvelle sur une charte qui assurât les droits de la nation." Et que vous a-t-il répondu ? lui demanda-t-on. " Il m'a frappé sur l'épaule avec une bonté parfaite, et m'a dit : Vous avez tout-à-fait raison, mon cher sénateur ; mais, fiez-vous à moi, ce n'est pas le moment." Et ce sénateur, comme beaucoup d'autres, se contentoit du plaisir d'avoir parlé, lors même que son opinion n'étoit pas le moins du monde adoptée. Les besoins de l'amour-propre, chez les François, l'emportent de beaucoup sur ceux du caractère.

' Une chose bien bizarre, et que Bonaparte a pénétrée avec une grande sagacité, c'est que les François, qui saisissent le ridicule avec tant d'esprit, ne demandent pas mieux que de se rendre ridicules eux-mêmes, dès que leur vanité y trouve son compte d'une autre manière. Rien en effet ne prête plus à la plaisanterie que la création d'une noblesse toute nouvelle, telle que Bonaparte l'établit pour le soutien de son nouveau trône. Les princesses et les reines, citoyennes de la veille, ne pouvoient s'empêcher de rire elles-mêmes, en s'entendant appeler Votre Majesté. D'autres, plus sérieux, se faisoient répéter le titre de monseigneur du matin au soir, comme le Bourgeois gentilhomme. On consultoit les vieilles archives, pour retrouver les meilleurs documens sur l'étiquette ; des hommes de mérite s'établissoient gravement à composer des armoiries pour les nouvelles familles : enfin, il n'y avoit pas de jour qui ne donnât lieu à quelque situation digne de Molière ; mais la terreur, qui faisoit le fond du tableau, empêchoit que le grotesque de l'avant-scène ne fût bafoué comme il auroit dû l'être. La gloire des généraux françois relevoit tout, et les courtisans obséquieux se glissoient à l'ombre des militaires, qui méritoient sans doute les honneurs sévères d'un état libre, mais non les vaines décorations d'une semblable cour.' III. 94-96.

He was aware of the ridicule to which his new dignity was exposed, even in his own person ; but in him this feeling only added acrimony to the cravings of his boundless ambition.— ' They mock at my new dynasty,' said he. ' In five years I will make it the oldest in Europe.' The following anecdote, we think, is curiously characteristic, both of the taste and principles of that extraordinary person.

' Lorsque Bonaparte fit arrêter Moreau, il dit : " J'aurois pu le faire venir chez moi, et lui dire : Ecoute, toi et moi, nous ne pouvons pas rester sur le même sol ; ainsi va-t'en, puisque je suis le plus fort : et je crois qu'il seroit parti. Mais ces manières chevaleresques sont puériles en affaires publiques." Bonaparte croit, et a eu l'art de persuader à plusieurs des apprentis machiavélistes de la génération nouvelle, que tout sentiment généreux est de l'enfance.' III. 93.

The comparison of the old legitimate despots with Bonaparte, and the preference so decidedly given to the former, in the following passage, are proofs, we think, rather of the author's zeal against present oppression, than of her historical candour and

justice. At his worst, Bonaparte never approached to the atrocities of a Paul,—or any other Russian tyrant, when excited to anger or revenge: But the passage is curious, and, with some exaggeration, contains no small portion of truth.

‘Catherine II. et Frédéric II. recherchoient l’estime des écrivains françois, et ces deux monarques, dont le génie pouvoit tout asservir, vivoient en présence de l’opinion des hommes éclairés, et cherchoient à la captiver. La tendance naturelle des esprits étoit à la jouissance et à l’application des idées libérales, et il n’y avoit presque pas un individu qui souffrit dans sa personne ou dans ses biens. Les amis de la liberté étoient sans doute en droit de trouver qu’il falloit donner aux facultés l’occasion de se développer; qu’il n’étoit pas juste que tout un peuple dépendit d’un homme, et que la représentation nationale étoit le seul moyen d’assurer aux citoyens la garantie des biens passagers qu’un souverain vertueux peut accorder. Mais Bonaparte, que venoit-il offrir? apportoit-il aux peuples étrangers plus de liberté? Aucun monarque de l’Europe ne se seroit permis, dans une année, les insolences arbitraires qui signalent chacun de ses jours. Il venoit seulement leur faire échanger leur tranquillité, leur indépendance, leur langue, leurs lois, leurs fortunes, leur sang, leurs enfans, contre le malheur et la honte d’être anéantis comme nations, et méprisés comme hommes. Il commençoit enfin cette entreprise de la monarchie universelle, le plus grand fléau dont l’espèce humaine puisse être menacée, et la cause assurée de la guerre éternelle.

‘Aucun des arts de la paix ne convient à Bonaparte; il ne trouve d’amusement que dans les crises violentes amenées par les batailles. Il a su faire des trêves, mais il ne s’est jamais dit sérieusement;—*c’est assez*; et son caractère, inconciliable avec le reste de la création est comme le feu grégeois, qu’aucune force de la nature ne sauroit éteindre.’ III. 101, 102.

These extracts are enough, we suppose, to show the reader the spirit in which the work is written, and the kind of interest it possesses. We can afford no more on the subject of Bonaparte, except such as are more immediately connected with the history of its distinguished author.

In looking back to what she has here said, with so much emphasis, of the injustice from which she suffered, it is impossible not to be struck, as we have already hinted, with the aggravation that injustice seems to receive from the quality of the victim, and the degree in which those sufferings are exaggerated, because they were her own. We think the hostility of Napoleon towards a person of her sex, character and talents, was in the highest degree paltry, and unworthy even of a high-minded tyrant. But we really cannot say that it seems to have had any thing very savage or ferocious in the manner of it. He did not touch, nor even menace her life, nor her liberty, nor her fortune. No daggers, nor chains, nor dungeons, nor confisca-

tions, are among the instruments of torture of this worse than Russian despot. He banished her first from Paris, and then from France; suppressed her publications; separated her from some of her friends; and obstructed her passage into England;—very vexatious treatment certainly, but not quite of the sort that we should have guessed at, from the tone either of her complaints or lamentations. Her main grief was the loss of the society and brilliant talk of Paris; and if that had been spared to her, we cannot help thinking that she would have felt less horror and detestation at the inroads of Bonaparte on the liberty and independence of mankind. She avows this indeed pretty honestly, where she says, that, if she had been aware of the privations the speech of M. Constant was ultimately to bring upon herself, she would have taken care that it should not have been spoken. The truth is, that, like many other celebrated persons of her country, she could not live happily without the excitements and novelties that Paris alone could supply; and that, when these were withdrawn, not all the vivacity of her genius, nor all the warmth of her heart, could protect her from the benumbing influence of *ennui*. Here are her own confessions on the record.

‘ Je ne dissimule point que le séjour de Paris m’a toujours semblé le plus agréable de tous. La conversation française n’existe qu’à Paris, et la conversation a été, depuis mon enfance, mon plus grand plaisir. J’éprouvois une telle douleur à la crainte d’être privée de ce séjour, que ma raison ne pouvoit rien contre elle.’ III. 50.

‘ J’étois vulnérable par mon goût pour la société. Montaigne a dit jadis : *Je suis Français par Paris*; et s’il pensoit ainsi il y a trois siècles, que seroit-ce depuis que l’on a vu réunies tant de personnes d’esprit dans une même ville, et tant de personnes accoutumées à se servir de cet esprit pour les plaisirs de la conversation? *Le fantôme de l’ennui m’a toujours poursuivie*; c’est par la terreur qu’il me cause que j’aurois été capable de plier devant la tyrannie—si l’exemple de mon père, et son sang qui coule dans mes veines, ne l’emportoient pas sur cette foiblesse.’ III. 8.

We think this rather a curious trait, and not very easily explained. We can quite well understand how the feeble and passive spirits who have been accustomed to the stir and variety of a town life, and have had their inanity supplied by the superabundant intellect and gaiety that overflows in these great repositories, should feel helpless and wretched when these extrinsic supports are withdrawn; but why the active and energetic members of the vast assemblage, who draw their resources from within, and enliven not only themselves but the inert mass around them, by the radiation of their genius, should suffer in a similar way, it certainly is not so easy to understand. In

France; however, the people of the most wit and vivacity seem to have always been the most subject to *ennui*. The letters of Mad. du Deffand, we remember, are full of complaints of it; and those of De Bussy also. It is but a humiliating view of poor human nature, if the most exquisite arrangements for social enjoyment, should be found thus inevitably to generate a distaste for what is ordinarily within our reach; and the habit of a little elegant amusement, not coming very close either to our hearts or understandings, should render all the other parts of life, with its duties, affections, and achievements, distasteful and burdensome. We should be inclined however, we confess, both to question the perfection of the arrangements, and the system of amusement that led to such results, and also to doubt of the permanency of the discomfort that may arise on its first disturbance. We are persuaded that at least as much enjoyment may be obtained, with less of the extreme variety, and less of the overexcitement which belongs to the life of Paris, and is the immediate cause of the depression that follows their cessation; and are still more convinced, that, in minds of any strength and resource, this depression will be of no long duration, and that nothing but a little perseverance is required to restore the plastic frame of our nature to its natural appetite and relish for the new pleasures and occupations that may yet await it, beyond the precincts of Paris or London. We remember a signal testimony to this effect, in one of the later publications we think of Volney, the celebrated traveller;—who describes, in a very amusing way, the misery he suffered when he first changed the society of Paris for that of Syria and Egypt, and the recurrence of the same misery when, after years of absence, he was again restored to the importunate bustle and idle chatter of Paris, from the tranquil taciturnity of his warlike Mussulmans;—his second access of home sickness when he left Paris for the United States of America,—and the discomfort he experienced, for the fourth time, when, after being used to the free and substantial talk of these stout republicans, he finally returned to the amiable trifling of his own famous metropolis. We have not time, however, to pursue this discussion farther at present, and must hurry through what remains of the task before us.

Her first banishment was only forty leagues from Paris; but the misery it seems to have excited could not have been surpassed by a relegation to Kamschatka or Botany Bay—and she describes herself wandering from village to village, round the verge of the forbidden circle, with a melancholy longing, like what Adam might have felt when he looked back on his lost

Paradise. In this season of affliction, however, she received consolation from a quarter where it was least to have been expected.

‘ C’est dans ces jours orageux que je reçus le plaidoyer de M. Mackintosh ; là, je lus ces pages où il fait le portrait d’un jacobin qui s’est montré terrible dans la révolution contre les enfans, les vieillards et les femmes, et qui se plie sous la verge du Corse, qui lui ravit jusqu’à la moindre part de cette liberté pour laquelle il se prétendait armé. Ce morceau, de la plus belle éloquence, m’émut jusqu’au fond de l’âme : les écrivains supérieurs peuvent quelquefois, à leur insçu, soulager les infortunés, dans tous les pays et dans tous les temps. La France se taisait si profondément autour de moi, que cette voix, qui tout à coup répondait à mon âme, me sembloit descendue du ciel : elle venait d’un pays libre.’ III. 61, 62.

She went to Berlin and Weimar, and began her study of the German literature and character in 1804 ; but, before we hear much about them, the first part of her chronicle is suddenly broken off, and we are brought down, on its resumption, to the period of her publication on Germany, in 1810. The reasons assigned for suppressing that work, and for banishing its author again from France, are among the most extraordinary exhibitions of the outrageous arrogance of the Imperial Government, and the intolerant nationality on which it partly reposed, that have ever been authentically preserved. Here is a part of the letter addressed to her by the Minister of Police on the occasion.

‘ “ Il ne faut point rechercher la cause de l’ordre que je vous ai signifié, dans le silence que vous avez gardé à l’égard de l’Empereur dans votre dernier ouvrage ; ce seroit une erreur : *il ne pouvoit pas y trouver de place qui fût digne de lui* ; mais votre exil est une conséquence naturelle de la marche que vous suivez constamment depuis plusieurs années. Il m’a paru que l’air de ce pays-ci ne vous convenoit point, et nous n’en sommes pas encore réduits à chercher des modèles dans les peuples que vous admirez.

‘ “ Votre dernier ouvrage n’est point français ; c’est moi qui en ai arrêté l’impression. Je regrette la perte qu’il va faire éprouver au libraire ; mais il ne m’est pas possible de le laisser paraître.” — III. 119.

Insolent as these reasons are, they were not the true ones ; for Mad. de S. informs us immediately after,—

‘ En effet, le ministre de la police avoit montré plus de franchise en s’exprimant verbalement sur mon affaire ; il avoit demandé pourquoi je ne nommois ni l’Empereur, ni les armées dans mon ouvrage sur l’Allemagne. Mais, lui répondit-on, l’ouvrage étant purement littéraire, je ne vois pas comment un tel sujet aurait pu y être amené. — “ Pense-t-on, dit alors le ministre, que nous ayons fait dix-huit années la guerre en Allemagne pour qu’une personne d’un nom aussi

connu imprime un livre *sans parler de nous ?* Ce livre sera détruit, et nous aurions dû mettre l'auteur à Vincennes." III. 121.

There is something still more ludicrous in the explanation given of M. W. Schlegel's banishment. That distinguished person had been eight years in Mad. de S.'s family, and superintended the education of her son, when he was suddenly ordered to return to Germany.

' Le Préfet, qui avoit l'habitude, comme la plupart des agens de l'Empereur, de joindre des phrases doucereuses à des actes trèsdurs, me dit que c'étoit par intérêt pour moi que le gouvernement éloignoit de ma maison M. Schlegel, qui me rendoit anti-françoise. Vraiment touchée de ce soin paternel du gouvernement, je demandai ce qu'avoit fait M. Schlegel contre la France ; le préfet m'objecta ses opinions littéraires, et entre autres une brochure de lui, dans laquelle, en comparant la *Phèdre d'Euripide* à celle de *Racine*, il avoit donné la préférence à la première. C'étoit bien délicat pour un monarque Corse, de prendre ainsi fait et cause pour les moindres nuances de la littérature françoise. Mais, dans le vrai, on exiloit M. Schlegel parce qu'il étoit mon ami.' III. 131, 132.

After this her persecutions multiplied, and assumed a more cruel character. Her beautiful friend, Madame Recamier, and her pious and noble friend M. de Montmorenci, were both banished for having come to see her : and the slightest excursion from her own house was watched, and complained of by the prefect ;—so that, with fear and trembling, and sorrow and anguish, she again crossed the Rhine, and arrived, through many painful adventures, at Vienna. The system of *espionage* which France had not only perfected, but enjoined upon all her allies, followed her into this distant region ; though with certain modifications, which she thus describes in the language of bitter irony.

' Or, voici sa manière de surveiller : il établit à ma porte, dans la rue, des espions qui me suivoient à pied quand ma voiture alloit doucement, et qui prenoient des cabriolets pour ne pas me perdre de vue dans mes courses à la campagne. Cette manière de faire la police me paroissoit réunir tout à la fois le machiavélisme françois à la loquacité allemande. Les Autrichiens se sont persuadés qu'ils ont été battus faute d'avoir autant d'esprit que les François, et que l'esprit des François consiste dans leurs moyens de police ; en conséquence, ils se sont mis à faire de l'espionnage avec méthode, à organiser ostensiblement ce qui tout au moins doit être caché ; et destinés par la nature à être honnêtes gens, il se sont fait une espèce de devoir d'imiter un état jacobin et despotique tout ensemble.' III. 179.

We cannot afford, however, to go into her personal adventures, or even her observations on Austria, Poland and Galicia—and must confine ourselves to a few extracts about Russia, on which she dwells with the greatest complacency. The fol-

lowing sketches, though hastily and slightly traced, are evidently from the hand of a master.

‘ La plupart des maisons de Kiew ressemblent à des tentes, et de loin la ville a l’air d’un camp ; on ne peut s’empêcher de croire qu’on a pris modèle sur les demeures ambulantes des Tartares, pour bâtir en bois des maisons qui ne paroissent pas non plus d’une grande solidité. Peu de jours suffisent pour les construire ; de fréquens incendies les consomment, et l’on envoie à la forêt pour se commander une maison, comme au marché pour faire ses provisions d’hiver. Au milieu de ces cabanes s’élèvent pourtant des palais, et surtout des églises dont les coupoles vertes et dorées frappent singulièrement les regards. Quand, le soir, le soleil darde ses rayons sur ces voûtes brillantes, on croit voir une illumination pour une fête, plutôt qu’un édifice durable. ’ III. 205, 206.

‘ Quoiqu’on me conduisit avec une grande rapidité, il me sembloit que je n’avançois pas, tant la contrée étoit monotone. Des plaines de sable, quelques forêts de bouleaux et des villages à grande distance les uns des autres, composés de maisons de bois, toutes taillées sur le même modèle ; voilà les seuls objets qui s’offrissent à mes regards. J’éprouvois cette sorte de cauchemar qui saisit quelquefois la nuit, quand on croit marcher toujours et n’avancer jamais. Il me sembloit que ce pays étoit l’image de l’espace infini, et qu’il falloit l’éternité pour le traverser. A chaque instant, on voyoit passer des courriers qui alloient avec une incroyable vitesse ; ils étoient assis sur un banc de bois placé en travers d’une petite charette traînée par deux chevaux, et rien ne les arrêtoit un instant. Les cabots les faisoient quelquefois sauter à deux pieds au-dessus de leur voiture ; ils retomboient avec une adresse étonnante, et se hâtoient de dire *en avant*, en russe, avec une énergie semblable à celle des François un jour de bataille. La langue esclavonne est singulièrement retentissante ; je dirois presque qu’elle a quelque chose de métallique ; on croit entendre frapper l’airain quand les Russes prononcent de certaines lettres de leur langue, tout-à-fait différentes de celles dont se composent les dialectes de l’Occident. ’ III. 213, 214.

‘ J’approchois toujours davantage de Moscou, et rien n’annonçoit une capitale. Les villages de bois n’étoient pas moins distans les uns des autres ; on ne voyoit pas plus de mouvement sur les vastes plaines qu’on appelle des grands chemins, on n’entendoit pas plus de bruit ; les maisons de campagne n’étoient pas plus nombreuses ; il y a tant d’espace en Russie que tout s’y perd, même les châteaux, même la population. On diroit qu’on traverse un pays dont la nation vient de s’en aller. L’absence d’oiseaux ajoute à ce silence ; les bestiaux aussi sont rares, ou du moins ils sont placés à une grande distance de la route. L’étendue fait tout disparaître, excepté l’étendue même, qui poursuit l’imagination, comme de certaines idées métaphysiques dont la pensée ne peut plus se débarrasser, quand elle en est une fois saisie. ’ III. 218.

Her impressions of the national character, though perhaps

somewhat less accurate, are expressed with equal force and eloquence.

‘ Je n’ai rien vu de barbare dans ce peuple ; au contraire, ses formes ont quelque chose d’élégant et de doux qu’on ne retrouve point ailleurs. Jamais un cocher russe ne passe devant une femme, de quelque âge ou de quelque état qu’elle soit, sans la saluer, et la femme lui répond par une inclination de tête, qui est toujours noble et gracieuse. Un vieillard, qui ne pouvoit se faire entendre de moi, me montra la terre, puis le ciel, pour m’indiquer que l’une seroit bientôt pour lui, le chemin de l’autre. Je sais bien qu’on peut m’objecter, avec raison, de grandes atrocités que l’on rencontre dans l’histoire de Russie ; mais, d’abord, j’en accuserois plutôt les boyards, dépravés par le despotisme qu’ils exerçoient ou qu’ils souffroient, que la nation elle-même. ’ III. 212.

‘ Les Russes ne passent jamais devant une église sans faire le signe de la croix, et leur longue barbe ajoute beaucoup à l’expression religieuse de leur physionomie. Ils portent pour la plupart une grande robe bleue, serrée autour du corps par une ceinture rouge ; l’habit des femmes a aussi quelque chose d’asiatique, et l’on y remarque ce goût pour les couleurs vives qui nous vient des pays où le soleil est si beau, qu’on aime à faire ressortir son éclat par les objets qu’il éclaire. Je pris en peu de temps tellement de goût à ces habits orientaux, que je n’aimois pas à voir des Russes vêtus comme le reste des Européens. ’ III. 206.

‘ Le caractère de ce peuple est de ne craindre ni la fatigue, ni les souffrances physiques ; il y a de la patience et de l’activité dans cette nation, de la gaieté et de la mélancolie. On y voit réunis les contrastes les plus frappans, et c’est ce qui peut en faire présager de grandes choses ; car d’ordinaire, il n’y a que les êtres supérieurs qui possèdent des qualités opposées ; les masses sont, pour la plupart, d’une seule couleur.

‘ Les Russes ont, selon moi, beaucoup plus de rapports avec les peuples du midi, ou plutôt de l’orient, qu’avec ceux du nord. Ce qu’ils ont d’Européen tient aux manières de la cour, les mêmes dans tous les pays ; mais leur nature est orientale. ’ III. 209, 210.

‘ L’accueil des Russes est si obligeant, qu’on se croiroit, dès le premier jour, lié avec eux, et peut-être au bout de dix ans ne le seroit-on pas. Le silence russe est tout-à-fait extraordinaire ; ce silence porte uniquement sur ce qui leur inspire un vif intérêt. Du reste, ils parlent tant qu’on veut ; mais leur conversation ne vous apprend rien que leur politesse ; elle ne trahit ni leurs sentimens ni leurs opinions. On les a souvent comparés à des François ; et cette comparaison me semble la plus fautive du monde. La flexibilité de leurs organes leur rend l’imitation en toutes choses très facile ; ils sont Anglois, François, Allemands, dans leurs manières, selon que les circonstances les y appellent ; mais ils ne cessent jamais d’être Russes, c’est à dire impétueux et réservés tout ensemble, plus capables de passion que d’amitié, plus fiers que délicats, plus dévots que vertueux,

plus braves que chevaleresques, et tellement violens dans leurs désirs, que rien ne peut les arrêter lorsqu'il s'agit de les satisfaire. Ils sont beaucoup plus hospitaliers que les François ; mais la société ne consiste pas chez eux, comme chez nous, dans un cercle d'hommes et de femmes d'esprit, qui se plaisent à causer ensemble. On se réunit comme l'on va à une fête, pour trouver beaucoup de monde, pour avoir des fruits et des productions rares de l'Asie ou de l'Europe ; pour entendre de la musique, pour jouer ; enfin pour se donner des émotions vives par les objets extérieurs, plutôt que par l'esprit et l'âme : ils réservent l'usage de l'un et de l'autre pour les actions et non pour la société. D'ailleurs, comme ils sont, en général, très-peu instruits, ils trouvent peu de plaisir aux conversations sérieuses, et ne mettent point leur amour-propre à briller par l'esprit qu'on y peut montrer. La poésie, l'éloquence, la littérature, ne se rencontrent point encore en Russie ; le luxe, la puissance et le courage sont les principaux objets de l'orgueil et de l'ambition ; toutes les autres manières de se distinguer semblent encore efféminées et vaines à cette nation.—Un homme de beaucoup d'esprit disoit que la Russie ressembloit aux pièces de Shakspeare, où tout ce qui n'est pas faute est sublime, où tout ce qui n'est pas sublime est faute.' III. 221-223.

But we must not indulge farther in these seducing quotations ; and indeed must here break off, somewhat abruptly, our account of this interesting publication. The Dramatic essays which fill one volume, appear to us the least worthy of their author—whose vocation indeed does not seem to have been for poetry. There is a translation of Prior's Nut-brown Maid, and another of one of Mr Bowles's Elegies ; but nothing from Lord Byron, who is mentioned however in the Biography to have been the god of her idolatry. There are some prose pieces which are of great merit, and several of them very curious, as belonging to the early periods of the Revolution—we would specify particularly a little pamphlet, entitled, '*A quels signes peut on connoître quelle est l'opinion de la majorité de la nation ?*' published in 1792—and which contains many suggestions still applicable to that nation, and likely to be applicable to it for many years to come. It is, in fact, the difficulty of answering the question contained in this title, that renders all the political movements of the French people and government so full of uncertainty and peril.

It is an affliction, certainly, to be at the end of the works of such a writer—and to think that she was cut off at a period when her enlarged experience and matured talents were likely to be exerted with the greatest utility, and the state of the world was such as to hold out the fairest prospect of their not being exerted in vain. It is a consolation, however, that she has done so much ;—and her works will remain not only as a

brilliant memorial of her own unrivalled genius, but as a proof that sound and comprehensive views were entertained, kind affections cultivated, and elegant pursuits followed out, through a period which posterity may be apt to regard as one of universal delirium and crime,—that the principles of genuine freedom, taste and morality, were not altogether extinct, even under the reign of terror and violence—and that one who lived through the whole of that agitating scene was the first, luminously to explain, and temperately and powerfully to impress, the great moral and political lessons which it should have taught to mankind.

ART. V. *Œuvres Complètes de Demosthène et d'Eschine, en Grec et en Français.* Traduction de L'ABBE AUGER de l'Académie des Inscriptions et Belles-Lettres de Paris. Nouvelle édition, revue et corrigée par J. PLANCHE, Professeur de Rhétorique au Collège Royal de Bourbon. Tomes III. IV. V. VI. et VII. Paris, Verdière. 1820.

IN our former article upon the two first volumes of this work, we promised to resume our remarks upon the merits of the French translation, and to lay before the reader some specimens of an English version. But before we proceed to this conclusion of the discussion into which the appearance of Mr Planche's book has led us, we must be permitted to dwell yet a little upon a topic, in itself truly inexhaustible,—the prodigious merit of the immortal original. And we pursue this discourse the rather in these times, when a corrupt or a careless eloquence so greatly abounds, that there are but few public speakers who give any attention to their art, excepting those who debase it by the ornaments of a most vicious taste. Not, indeed, that the two defects are often kept apart; for some men appear to bestow but little pains upon the preparation of the vilest composition that ever offended a classical ear, although it displays an endless variety of far-fetched thoughts, forced metaphors, unnatural expressions, and violent perversions of ordinary language;—in a word, it is worthless, without the poor merit of being elaborate; and affords a new instance how wide a departure may be made from nature with very little care, and how apt easy writing is to prove hard reading.

Among the sources of this corruption, may clearly be distinguished as the most fruitful, the habit of extempore speaking, acquired rapidly by persons who frequent popular assemblies, and, beginning at the wrong end, attempt to speak

before they have studied the art of oratory, or even duly stored their minds with the treasures of thought and of language, which can only be drawn from assiduous intercourse with the ancient and modern classics. The truth is, that a certain proficiency in public speaking may be attained with nearly infallible certainty by any person who chuses to give himself the trouble of frequently trying it, and can harden himself against the pain of frequent failures. Complete self-possession and perfect fluency are thus acquired, almost mechanically, and with little or no reference to the talents of him who becomes possessed of them. If he is a man of no capacity, his speeches will of course be very bad; but, though he be a man of genius, they will not be eloquent. A sensible remark, or a fine image, may frequently occur; but the loose and slovenly and poor diction, the want of art in combining and disposing his ideas, the inability to bring out many of his thoughts, and the utter incompetency to present any of them in the best and most efficient form, will deprive such a speaker of all claims to the character of an orator, and reduce him to the level of an ordinary talker. The same man, had he never spoken in public, would have possessed the same powers of convincing or expounding, provided he were only called upon to exert them in conversation with one or two persons. Perhaps the habit of speaking may have taught him something of arrangement, and a few of the simplest methods of producing an impression; but beyond these first steps he cannot possibly proceed by this empirical process; and his diction is sure to be much worse than if he never had made the attempt,—clumsy, redundant, incorrect, unlimited in quantity, but of no value. Such a speaker is never in want of a word, and hardly ever has one that is worth having. ‘*Sine hâc quidem conscientiâ*’ (says Quintilian, speaking of the habit of written composition) ‘*illa ipsa extempore dicendi facultas, inanem modo loquacitatem dabit, et verba in labris nascentia.*’ (X. iii.)

It is a very common error to call this natural eloquence; it is the reverse; it is neither natural nor eloquence. A person under the influence of strong passions or feelings, and pouring forth all that fills his mind, produces a powerful effect on his hearers, and frequently attains, without any art, the highest beauties of rhetoric. The language of the passions flows easily; but it is concise and simple, and the opposite of that wordiness which we have been describing. The untaught speaker, who is also unpractised, and utters according to the dictates of his feelings, now and then succeeds perfectly; but, in those instances, he would not be the less successful for having studied

the art; while that study would enable him to succeed equally in all that he delivers, and give him the same control over the feelings of others, whatever might be the state of his own. Herein, indeed, consists the value of the study; it enables a man to do at all times what Nature only teaches upon rare occasions.

Now, we cannot imagine any better corrective to the faults of which we are complaining in the eloquence of modern times, than the habitual contemplation of those exquisite models which the ancients have left us; and especially the more chaste beauties of Greek composition. Its perfect success, both in moving the audience to whom it was addressed, and the readers in all ages who studied it, cannot be denied; its superiority to all that has ever been produced in other countries is confessed. There may be some use, therefore, in observing how certainly it was the result of intense labour—labour previously bestowed to acquire the power, and the utmost care used in almost every exercise of that power. Without somewhat both of this discipline, and this sedulous attention, it would be as vain to think of emulating those divine originals, by dint of a habit of fluent speech attained through much careless practice, as to attempt painting like Raphael, without having learned to draw, and by the help of some mechanical contrivance.

The extreme pains which the most illustrious of the Greeks bestowed upon their compositions, are evinced by all the accounts transmitted to us of the course of education deemed requisite to form an orator, and by the well known anecdotes of the steps by which both Demosthenes, and, after his example, Cicero, and some of his contemporaries, trained themselves to rhetorical habits. But the ancient writers have left us some still more striking illustrations of this matter. Dionysius of Halicarnassus, speaking of the exquisite finish given by Isocrates and Plato to their style, compares their works rather to pieces of fine chasing or sculpture, than of writing—*ἡ γραφή τις ἄλλα γλυφῆς καὶ τοξευτοῦς τοιαύτης λόγους.* (*De Struct. Orat. Sect. 25.*) Perhaps the minuter workmanship of chasing, the sort of gem-engraving which this seems to imply, may be thought more descriptive of the elaborate compositions of Isocrates, who was said to have employed more years in writing the panegyric on the Persian War alone, than Alexander took to conquer all Asia. Let it, however, be remembered, that this excessive labour, though allowed to have unfitted him for the forensic war—('palestræ quam pugne magis accommodatus')—was never deemed incompatible with the highest excellence in oratory, at least with the cultivation of all its graces. 'Omnes dicendi veneres sectatus est,' says Quintilian (X. i. 3.); and Cicero

'desires that those who undervalued this great master of composition, would allow him to indulge in the bad taste of admiring him, which he had caught from Socrates and Plato—' Me autem, qui Isocratem non diligunt, unâ cum Socrate et cum Platone errare patiantur.' (*Orat.* xiii.) But at least no one can doubt that Plato's qualities are of the noblest description; no one can charge with littleness—with miniature beauties—with sacrificing force and dignity to polish—him of whose diction it was said, that the Father of the Gods, had he spoken in Greek, would have used no other language than Plato's. Now this language, though compared by one great critic * to the inspirations of poetry, and by another † to those of the Delphic oracle, was by no means poured forth with the readiness which the admirers of modern fluency term Nature, and in which they think a true genius for eloquence consists, although it is only a habit acquired by a mechanical process. Plato 'non hominis ingenio, sed quodam Delphico oraculo instructus'—excelling all men 'eloquendi facultate divinâ quâdam et Homericâ'—did not at all pour out his mighty flood like our modern *Improvisatori*; for he continued (says the Grecian critic above cited), to his 80th year, correcting and new-moulding the language of his Dialogues; and after his decease a note-book was found, in which he had written the first words of the celebrated treatise *De Repub.* several times over, in different arrangements. The words are, *Κεῖσθην ὅτε; εἰς Πειραιᾶ, μετὰ Γλαυκῶνος τῷ Ἀριστῶτι.* 'I went down yesterday to the Piræus, with Glaucon the son of Ariston, (*De Struct. Orat.* Sect. 25.); and others relate the anecdote as if the changes were all made in the position of the four first words.

But let us come to Demosthenes himself. His extreme care in composing his orations is as well known as the sedulous discipline which he underwent to learn the art; and, notwithstanding the facility which he must have acquired, both by this preparation and by long and constant practice, he was averse, in an extraordinary degree, to extempore speaking. Plutarch relates this of him; and, notwithstanding the great excellence which is ascribed to his unpremeditated harangues in the same passage, there may be some suspicion that his reluctance to 'trust his success to Fortune,' affected his execution upon certain occasions,—perhaps in the memorable debate with Philip, of which the orator's illustrious rival has left us so lively and so cutting a description. His anxiety in preparing may, however, be further estimated, by the circumstance of his having left

* Cicero, *Orat.*

† Quint. X. l. 4.

a collection of exordia, or introductions, almost resembling that '*volumen procemiorum*,' which we know Cicero to have kept ready by him, from the pleasant mistake that he committed in sending one to Atticus as the beginning of his treatise *De Gloriâ*, when he had before used it for the Third Book of the *Academic Questions*. * It may justly be conceived, that Demosthenes was not likely to have a book of Introductions, so unconnected with any particular subject as to be applicable to any speech. This rather befitted Sallust, or Cicero himself, than the close reasoning, business-like Athenian. Yet in whatever way we account for it, and though we suppose that most of the Exordia in question were written in the prospect of making some particular speech, when time was wanting to compose the whole, the fact of fifty-six of these pieces remaining, only two or three of which exist in their connexion with any of his known orations, seems to prove, incontestably, the laborious nature of the process by which he reached and kept his vast preeminence in eloquence.

But his immortal works themselves afford, by internal evidence, the most satisfactory proofs of this position; and we may obtain a singularly instructive view of the workmanship of those exquisite pieces, by examining its progress, where we are accidentally enabled to trace it through the different stages of the process. The means of doing this are afforded by those *repetitions* which occur in several of the most celebrated orations. The instance in which this is to be found to the largest extent, is in the Fourth Philippic. Commentators and critics, who have never very nicely traced this subject, aware generally of the existence of these repetitions, have denominated that Philippic the peroration of the whole nine speeches against Philip; and thus conceived that they accounted for so many passages being found in it which had occurred in the others. But in truth the oration is almost entirely a repetition, and chiefly from one of the preceding, that most magnificent of all the minor works, the oration upon the affairs of the Chersonese, sometimes called the Eighth Philippic. Now, if there were only whole passages of great length found in two orations without the least variation, we might perhaps fairly conclude, that the transcribers had by mistake copied them; and if nearly the whole of any one oration were an *exact* repetition of portions of some other, we might suspect that oration to be spu-

* He tells him, as soon as he discovers the mistake, to cancel the exordium, and prefix another, which he sends, taken from the same collection. *Ep. ad Att.* xvi, 6,

rious. But here there are so many variations and additions, as plainly show that the orator sometimes improved upon the first thought, and sometimes adapted it to the new occasion; and we can frequently perceive the means by which the adaptation is effected. The repetition, however, of many whole sentences, and of many clauses of sentences, without a single alteration, clearly proves the pains which he had bestowed upon the composition of each part, and the value which he set upon the result. It demonstrates beyond a doubt, that the choice and the disposition of the words, even in passages apparently of inferior importance, had been a work of mature deliberation, and of some difficulty; for his retaining the self same words in the same order, when he wishes a second time to express the same ideas, shows that he regarded the first selection and arrangement as preferable to any other. Nothing can be more calculated to convince us that he deemed all the portions of his speech important; that all were elaborated with extreme art; and that no part of his composition was carelessly prepared and slung in as a kind of cement to fill up the interstices between splendid passages. We see those finer parts themselves repeated sometimes with variations, and sometimes in the same terms, exactly like the periods of a more ordinary description. On the other hand, nothing can be more instructive than an attentive consideration of the alterations, especially where they are made as additions or improvements, and not merely with the view of adapting an old sentence to some new purpose, but because the orator saw that he might increase its beauty, its aptness, or its force, by some happy turn or new thought, which had suggested itself since the first composition. We are thus let into the history of the composition almost as if his rough draft had been preserved; and can trace the progress of the work, not perhaps from the first execution to the most finished state, as in the manuscripts of Pope's verses which Dr Johnson has cited, but from a state with which the great Orator had, after much labour, rested satisfied, and which all ages would have deemed perfect had he gone no further, to that still more exquisite pitch of beauty, in the existence of which only Demosthenes could have made us believe.

We shall begin with the highly wrought description of Philip's implacable enmity to Athens, of his policy in overrunning Thrace, and of the reasons why he hates Athens. This passage is to be found both in the Oration upon the Chersonese, and the Fourth Philippic; but adapted to the circumstances in which the latter was delivered, and somewhat more highly finished. He begins by saying, in the very same words, that

they must first of all dismiss every doubt from their minds of Philip having broken the peace, and waged war against them. In the Chersonese, * when stating this, he calls upon them to give over their mutual wranglings and recriminations; which is omitted in the Fourth Philippic.† He then goes on in the same words in both: ‘Και κακονους μὲν ἐστὶ, καὶ ἐχθρὸς ὅλη τῇ πόλει, καὶ τῷ τῆς πόλεως ἰθαφεῖ.’—‘He is the deadly enemy‡ of the whole city, of the very ground on which it stands.’ And then he bursts forth, ‘προσθῆσω δὲ’—but in the two orations, the addition is perfectly different. In the Chersonese—‘he is the enemy of every creature within the city, and of those, too, who most flatter themselves that they enjoy his smiles. Do they doubt it? Let them look at the fate of those Olynthians, Lasthenes and Euthycrates, who were to all appearance his most familiar favourites, and no sooner betrayed their country into his hands than they perished by the most miserable of deaths.’ In the Fourth Philippic, after the words, προσθῆσω δὲ—he adds, not that Philip is the implacable enemy of the men, but of the Gods of the city, and invokes their vengeance upon his head—‘τοῖς ἐν τῇ πόλει θεοῖς, οἵπερ αὐτὸν ἐχολέσσαν!’—‘He is the enemy of the Gods themselves who guard us; § may they utterly destroy him!’ The reason of the change is here sufficiently apparent. Possibly he might think the allusion to the Olynthians not so appropriate, when, another year having elapsed, the fact could not be so fresh in the hearer’s recollection; but this is by no means so probable a supposition as that he highly valued the appeal to the gods, or perhaps that it was a burst of passion at the moment of speaking. After this, it was impossible, without sinking, to introduce the passage respecting the inhabitants of the city; and it would have been almost as difficult to introduce the whole passage, including the parenthesis respecting Olynthus, before the imprecation, for that would have destroyed the connexion between the substantive and the governing epithet. He then employs the same words in both orations to state, that the government at Athens is the chief object of his hatred; and justly. In the Philippic, he gives two reasons for this; both that Philip feels the opposite interests and mutual injuries which make them necessarily enemies, and that he knows Athens must be always

* Reiske, Or. Græc. I. 99.

† Id. I. 134.

‡ Literally, ‘he is ill-disposed, and the enemy.’

§ The repetition of the word πόλει, in the Greek, has a force which the literal translation would not give, for want of the associations connected with it. The city was every thing; and it had all the importance of country, with greater individuality.

the refuge of the States which he wishes to subdue, and must always resist him herself, while her democratic government endures. Both these reasons are repetitions, almost in the same words, from former orations; the one is taken from the second Philippic, delivered many years before, and the other from the Chersonese.

The only material change in the composition of the former, is the transposition, in the fourth, of the words *βεβαιως* and *ασφαλως*, apparently to correct the bad effect of the same vowels coming together, as they did in the Second Philippic, *παντα τα αλλα ασφαλως κηληται*: the expression which seems finally to have satisfied his exquisite ear, is *οπαντα ταλλα βεβαιως κηληται*. Perhaps he also preferred for the rounding of the period, *εν Μακεδονια το οικει*. The sense seems to be the same in each case, as it also is in the substitution of *ηγειται* for *νομίζει*, which he makes in the Fourth, notwithstanding the same word ended the clause but one before. The sentence taken from the Second is tacked, as it were, to the one taken from the Chersonese, by the insertion of a few words, *προς δε ταυτοις οσοις εστιν*. The few changes which the orator has made in the composition of the passage taken from the Chersonese, are remarkable—as the process of improving plainly appears in them, both with respect to the sense and sound — *επε γαρ υμεις ουκ αυτοι πλειονεκτεσθαι και κατασχειν αρχην εν πεφυκοις, αλλ' εττερον λαβειν κολυσαι, και εχοντ' αφελισθαι δεινοι* (in the Fourth Philippic *και τον εχοντ' αφελισθαι*) *και ολας ενοχλησαι τοις αρχην βουλομενοις, και παντας ανθρωπους εις ελευθεριαν εξαφελισθαι ετοιμοι* (in the Fourth Philippic *εξιλεσθαι δεινοι*.) He evidently considered *δεινοι* as the more powerful word fitter to close the period, and avoided repeating it; he also preferred *εξιλεσθαι* to a compound of the *αφελισθαι*, which he had used before; and beside the advantage of concluding with *δεινοι*, the hiatus occasioned by the *αι* and *ε* following was avoided.

Perhaps we may conclude from hence (and we shall have other instances hereafter), that sometimes when he repeats the same word, or words of the same root within a very short space, it is rather because he had not given the last polish to those parts, than because he deliberately approves such repetitions; as in the same passage of the Chersonese, a little further on, after using *κατασκευαζηται* twice in one period, where the repetition is a figure, and evidently intended for increasing the force of the expression, he repeats it with another word, where it seems superfluous; and, in the beautiful description of private and public life, in the peroration of the Fourth Philippic, *απρησμονα* is used twice. But in many instances the repetition is intensive, both where the whole word is repeated, and where the root only is taken; as in the Chersonese, *ταις κατηγοριας ως Διοσκωρος κατηγορουσι*:

in the oration against Aristocrates, where he speaks of persons *κινδυνεύοντες κινδυνεύουσι*; and in the oration for Ctesiphon and others, where he talks of persons *πολεμῶντες πολεμουμένης*. In other instances, (and these form the great majority of the cases where he may be supposed to have repeated intentionally, though without any argument or figure, the fittest word having been selected at first, and the idea recurring), he seems to think any sacrifice, however slight, of the sense to the sound, beneath his dignity, and does not condescend to go out of his way, in order to vary the phrase.

In the next part of the passages which we are comparing, two curious instances occur of the orator using the sentences originally made for one purpose, in such a manner as to adapt them to a different state of things. The argument in the Chersonese is, that Diopieithes must be supported in his predatory attack upon Thrace, both because it was justified by Philip's intrigues in the Chersonese, and his open assistance to the Cardians; and because, whatever thwarted his policy, furthered that of Athens. 'All his operations' (says the Orator), 'and all his enterprises, are enterprises against this country; and wheresoever any one attacks him, he attacks him in our defence.' In the 4th Philippic, this last member of the sentence is omitted, because it evidently, though stating a general proposition, referred peculiarly to the movements of Diopieithes, which were no longer in discussion. Again, when the Chersonese oration was delivered, Philip had not as yet taken many of the towns in Upper Thrace; and Demosthenes, in speaking of his campaign there, asks if any one is so weak as to imagine that he would encounter the toil and the dangers of that winter campaign for the sake of such miserable places as Drongylum, Cabyle, Mastira—*καὶ αἱ νῦν εἰσὶ καὶ κατασκευάζονται*. When the 4th Philippic was delivered, he was supposed to be in possession of nearly all Thrace; therefore the above expression is altered to *καὶ ἅνυ φασὶν αὐτὸν εἶναι*. He also expands the fine period immediately following, in which he contrasts the importance of Athens with those wretched conquests, in order to demonstrate that this alone can be the object of Philip's attack, introducing an invocation somewhat like that which he had added to the first part of the passage. With the exception of this addition, every other word is the same in the two orations; it is printed in italics in the following translation. 'Who can suppose that about Athens—her ports, and arsenals, and navy, and precious mines, and ample revenues, *her territory and her renown,—which may neither he nor any other conqueror ever tear from our country!*—he is wholly indifferent; and will suffer you to keep quiet possession of them, while, for the millet and rye of the Thracian barns,

‘ he is content to bury himself in the winter of that dreary region? ’ *

To trace, in the same manner, the whole of the passages repeated, either word for word, or with such improvements as these, and forming near one-half of the 4th Philippic, is unnecessary. But we may remark, that the two bursts of eloquence which seem the most calculated of any in those two Orations to strike the Athenian audience, and which, for effect, are perhaps surpassed by none in the whole Philippics, are, with only the change of a single particle, the same in both. In one of them, he appeals with the greatest skill to their sense of shame, and most artfully rouses their feelings without offending their pride; insinuating, that if they wait until any more pressing emergency obliges them to act, they will be yielding to the fear of corporal violence, by which slaves only can be actuated. In the other, he appeals with the utmost dignity to their ancient renown, and sets before them their incapacity to endure subjection, as the ground of Philip’s implacable enmity. In the former passage, he supposes that some god should offer to be answerable for their safety, provided they let Philip alone; and he swears by all the powers of heaven, that this would still be a degenerate policy, unworthy of their own and their forefathers’ glory. He protests that he would rather die than give such disgraceful council, and that no one else dares give it; and demands why they delay acting, and for what greater emergency they are waiting. All that should ever urge free men to action, he says, they have long ago been pressed by.— ‘ And far be from us the compulsion which slaves only know ! ‘ Where lies the difference ? To a free man the dread of dishonour is, of all considerations that can be fancied, the most powerful ; to the slave, indeed, blows and bodily stripes supply its place ; but that is impossible here ; and decency forbids the mention of it. ’ † In the other passage we have alluded to, the language in which he tells them that the very existence of the state, and not merely its independence, is at stake, as Philip knows they would never endure slavery, and that they would not be able to endure it, even if they wished it, after their inveterate habits of dominion, must have produced an effect beyond description upon the Athenian audi-

* Literally ‘ to winter in that dungeon. ’ The contempt shown for Thrace on all occasions by the Greeks, was increased by their practice of tracing Philip’s origin to that country, though it perhaps gave rise to the genealogy.

† Reiske, *Orat. Græc.* I. 102 & 138,

ence.—οἶδε γὰρ ἀκριβῶς ὅτι δουλεύειν μιν ὑμεῖς αὐτ' ἐβλήσαστε, αὐτ' ἐν ἐβλήτῃ ἐπιστάσθε. *αὐχρὴν γὰρ εἰσβάτε.* Yet these very words, the three last of which, for conciseness and dignity, may be compared to the celebrated *ὡςπερ νεφός*, in the oration for Ctesiphon, he uses for the same purpose, after having produced the like sensation by means of them a few months before.† Even the well known invective against the Athenians, in the first Philippic, for busying themselves about the news, when they had news enough in a man from Macedon having become powerful in Greece, is repeated in the oration upon the arrival of the Letter, (sometimes called the Eleventh Philippic), and applied to that incident. He there describes his countrymen as occupied in issuing decrees, and *τοῦτ' ἀπονομιμαὶ κατὰ τὴν ἀρχὴν ἢ τι λυγρὸν νεώτερον.* And he asks indignantly, in the same tone and with the very same meaning as he had done twelve years before, but only with the substitution of 'braving' for 'subduing,' and the addition of the letter—*Καὶ τοι γὰρ γενεὴ ὦν νεώτερον, ἢ Μακεδῶν ἀνὴρ καταφρονῶν Ἀθηναίων καὶ Ἰολυμένων ἐπιστολῶς κερμαίνει τοιαύτως οἶα: κρουσάτε μικρῶ πρότερον; ‡*

The Perorations of the Greek orators are not remarkable for strength, if we regard only the very last sentences of all; because it seems to have been a rule enjoined by the severe taste of those times, that, after being wrought up to a great pitch of emotion, the speaker should, in quitting his audience, leave an impression of dignity, which cannot be maintained without composure. The same chastened sense of beauty which forbade a statue to speak the language of the passions, required that both the whole oration, and each highly impassioned portion of it, should close with a calmness approaching to indifference and tameness. Æschines, in the speech against Ctesiphon, would have furnished a remarkable exception to this rule, had he finished with that truly magnificent passage in which he calls up the illustrious dead of Athens, and plants them round himself, and bids his hearers listen to the groans that the crowning of the man who had conspired with barbarians, draws from the tombs of those who fell at Marathon and Plataeæ. So fine a peroration is perhaps not in any language to be found; it probably suggested to his great rival the celebrated oath which has long stood, by universal consent, first among the remarkable passages of perfect eloquence. But Æschines was obliged to compose himself after this burst; and he added the two sentences, one of which has ever been deemed both extravagant and absurd, and was indeed attacked as such by Demosthenes—the invocation to a series of natural objects and abstract qualities;

† Reiske, *Orat. Græc.* I. 104 & 148. ‡ Id. I. 157.

and the other becomes still more feeble than it naturally would have been, by immediately following that lofty but clumsy flight. The result is a total failure—one of the most remarkable in the history of rhetoric—an attempt which is violent and overstrained, rather than vehement, yet heavy withal and cold—bearing the character of the worst declamation—and succeeded by a mean commonplace, without any felicity whatever, either of conception or execution. This failure—this sudden reverse of fortune—this total defeat in the very moment of the most prodigious success—a transition from one of the grandest triumphs of the art of oratory to nearly the most signal discomfiture upon record, must be ascribed entirely to a compliance with that harsh rule which we have cited as regulating the Greek peroration, and which the judgment of all succeeding ages, both of ancient * and modern times, has repealed. But we find remarkable exceptions to this rule in the orations of Demosthenes himself,—not indeed that he ever breaksoff abruptly in the midst of an impassioned period, but that one or two of his finest orations are closed with passages of great force, and most careful composition, instead of ending in the very plain, seemingly negligent, perhaps purposely, or even affectedly negligent manner, observable in most of the others. We allude to no less than the grand oration of all, that for Ctesiphon, the concluding prayer of which is, if not vehement, yet singularly animated, and in the ideas as well as the rhythm most beautiful; and to the powerful declamation in which the oration upon the Embassy closes. Among the lesser works, the oration for the Rhodians affords an instance of a highly finished conclusion; at least, if it is not so grand as those two just referred to, we have evidence of its be-

* Some few of Cicero's perorations appear to be formed upon the Grecian model. We allude not to such orations as those *Pro Ligario* and *Pro Archia*, where the conclusion only preserves the subdued tone of the whole composition, and is as highly wrought as most parts of the speech, and with ornaments of the same kind. But the deep pathos of the anti-penultimate period in the *Pro Milone* is somewhat in contrast with the two last sentences; although, no doubt, there was a great object in view, the application perhaps of all that had gone before, by a solemn call upon the judges to do a certain thing. The sentence with which the second Philippic closes, furnishes a more near approach to the tameness of the Attic peroration, or rather ultimate conclusion. But many of his finest orations break off in bursts of the highest eloquence—as the first *Catalinarian*; the exquisite orations for *Flaccus* and *Cluentius*; and that *Pro Domo Suá*, which he himself prized so highly, and which he tells us he laboured so carefully. (*Ep. ad Att.* iv. 2.)

ing well considered; for the most striking part of it is a repetition of a sentence in the oration *De Republicâ Ordinandâ*; that sentence being almost the only part of the passage which is not repeated from the Third Olynthiac. ‘And’ (says the orator) ‘when you delight in listening to the praises of your forefathers, and the recital of their deeds, and the story of their trophies, I call upon you to act in a way worthy of your country; bearing in mind that your ancestors erected those trophies, not for you to gaze upon with fruitless wonder, but that the sight might urge you to emulate the virtues of those who raised them.’* The last clause (*νομίζετε τοιούτων, &c.*) is repeated almost word for word from the oration *De Rep. Ord.*† where it is attached to another sentence taken, with many others, as closely from the third Olynthiac.‡

The repetitions of which we are treating can rarely be traced in the great oration for Ctesiphon. In the speech itself, there is a remarkable repetition of the invocation with which it opens. Yet even there we may perceive ideas, formerly thrown out, again presented in an improved and expanded form. Thus, the expressive simile taken from bodily infirmities, bitterly applied to the silence or quiescence of Æschines, excepting when the state was in danger, occurs not then for the first time in the orator’s history: *ὥσπερ ἴα ἐν γυμνασίᾳ καὶ τασπασμασίᾳ ὅταν τι κακὸν τὸ σῶμα λαβῇ, τότε κινεῖται.* § This idea, it must be admitted, is of the boldest; the comparison depending for the justness of its application upon the assumption, that Æschines is in the nature of an old disease which has crept into the system, and, being quiet in the healthy state of the body, breaks out the moment any accident happens, and seizes on the weak point. The same comparison, in words very similar, had been used by Demosthenes many years before, in the second Olynthiac (sometimes called the first). It is there applied, in a less adventurous manner, to the tendency which success has to cover Philip’s defects—*ἐπὶ δὲ ἀρεῶσθημα τι συμβῆ πάντα κινεῖσθαι, καὶ ἐν γυμνασίᾳ, καὶ στρέμματι, καὶ ἄλλο τι τῶν ὑπαρχούτων σάβρον ηἶ.* ||

Although the bitter description of Philip’s vices, and the profligacy of his court, which immediately precedes this simile, is introduced partly to prove the weakness of his dynasty, and encourage the Athenians with the hope that its days are numbered, yet the digression (for such the orator, by his apology, seems conscious that it has become) runs away with him, and the simile is applied, not to the weakness of Philip, the principal point in discussion, but to the vices, which form the subject of

* Orat. Græc. I. 201.

† Id. I. 174.

‡ Id. I. 35.

§ Id. I. 294.

|| Id. I. 24.

the episode. This is clear from the *ομιαι*, which he says are now veiled by success, but will anon be disclosed *ἐν πλαιοις*. It may therefore be observed, that there is a little incorrectness in the reasoning, which is somewhat in a circle: for, first, the vices of Philip are introduced to prove his weakness; then those vices, concealed by his success, are to be exposed by his failure. But in another oration, that upon the Letter, sometimes called the Eleventh Philippic, and which consists, even more than the Fourth, of repetitions from the former speeches, Demosthenes again introduces the same figure, and almost in the same words, with, however, a more correct application; for the general description of Philip's vices is there omitted, and the simile is only employed to illustrate the probability of any reverse being fatal to his power, by calling into action its hidden imperfections. The alterations made in the composition here are remarkable. The comparison having been introduced with *συμβαίνει γὰρ*, the verb *ἀρρωσισι* is used instead of the noun *ἀρρωσῆμα* with *συμβῆ*; and *σάβρον* and *σάβρον* having been both used in the same sentence in the Olynthiac, *μη τελευτᾶς ὑγιαίνειν* is delicately substituted for the latter word in the Philippic. † When he makes use of this favourite figure a third time in the great oration, the passage may be supposed to have attained a still more exquisite degree of refinement. The composition is evidently more perfect; and, though the application may be somewhat more violent, the diction is far simpler, and the rhythm more harmonious.

In the former part of the passage in the second Olynthiac, on which we have been commenting, we have that fine piece of eloquence so justly admired by all lovers of this great orator, in which he displays the slippery foundation of ill-gotten power. Any translation so close as to deserve the name, and yet retain the beauties, is always hopeless from the Greek; but the following may be something like a remote approximation, where, to come near the diction, preserving the sense, appears impracticable.

‘When a confederacy rests upon union of sentiments, and all have one common interest in the war, men take a delight in sharing the same toils, in bearing the same burthens, and in persevering to the end. But when, by aggression and intrigue, one party, like this prince, has waxed powerful over the rest, the first pretext, the slightest reverse, shakes off the yoke, and it is gone! For it is not, O men of Athens, it is not in nature that stability should be given to power by oppression, and falsehood, and perjury. Dominion may for once be thus obtained; it may even endure for a season; and, by the favour

of fortune, may present to men's hopes a flourishing aspect; but time will search it, and of itself it must crumble in pieces. For as the lower part of buildings and vessels, and all such structures, should be the most solid, so ought the motives and principles of our actions to be founded in justice and in truth.'

The changes which this passage has undergone, when repeated in the oration upon the Letter, are remarkable; it is contracted, and is less rich and splendid; but the diction appears to be more exquisitely elaborated. Instead of *πλεονεξίας και πονηρίας*, it is *επιβουλής και πλεονεξίας*, both to avoid the alliteration, and because *πονηρία* expresses the busy, rather than the crafty qualities of the intriguer; *απάτη και βία* are also introduced as the instruments by which ambition and intrigue work; instead of *πρώτη προφασίς και μικρον πλαιομα*, it is *μικρά προφασίς και το τυχον πλαιομα*, to avoid the alliteration; and because 'a slight pretext, an ordinary reverse,' is perhaps more descriptive, besides that both epithets are in the same degree of comparison; *ταχίως* is inserted between *πλαιομα* and *απάτη*, to prevent the two *α*'s coming together; and lastly, the remarkable word *ανεχάλλισι*, shook off as does a horse impatient of its burthen, is changed into *δισσισι*, a more ordinary expression, though one also of great force, and which may perhaps be safely rendered in this place, shivered in pieces. The praises bestowed by some commentators upon *ανεχάλλισι*, may therefore be corrected by the ultimate decision of the most chaste and severe taste ever known in the world, that of Demosthenes, in his revision of his own compositions. The preference may have been given to *δισσισι*, partly to avoid the two *α*'s coming together, but most likely because the former word had been thought to convey a figure too violent for the rigorous abstinence of the Attic taste.* The translation of the altered part of the passage will therefore stand thus.

'But when intrigue and ambition have created the dynasty (as he

* Reiske (Or. Gr. XII. 62.) explains *ανεχάλλισι* by the effect of stroking the hair or mane of any animal from the tail towards the head; and also by the effect of fear or anger in raising the hair or the mane. Constantine renders it, when neuter, *mordere frenum ut equus erectis júbis*; and, when active, *cohibere pilis retractis*;—and H. Steph. gives nearly the same sense, citing the passage of the 2d Olynth. 'retroagere—reprimere comâ retrorsum tractâ.' If such were the meaning, it is not wonderful that Demosthenes should have changed the word; for the sense he intended to express was the reverse, viz. liberation from previous temporary restraint, and regaining the natural position. But see Hesych. and Ulpian. cit. in Not., where a meaning is given to the word exactly corresponding to our translation.

has done) by treachery and by violence, the slightest pretext, the most common mischance, shivers it in a moment, and it is gone !

In all orators, we fear, certain inconsistencies may be traced ; certain variations in the views taken of the same subject, according to the topic in hand ; and Demosthenes himself is no exception to the remark. This seems naturally incident to the rhetorical art, to the vehemence and exaggeration in which it delights, independently of the risk to which a professional advocate is exposed of being employed successively on opposite sides of a question, involving the same general observations, and turning upon the same principles. Beside the change of councils, which has been often remarked in Demosthenes upon one or two great publick questions, we frequently find him appealing to the same maxim in contrary ways. Thus, when it suits his purpose, he will say that every one knows how much easier it is to gain than to keep ; when, at another time, for an opposite view, he had treated, as an admitted truth, that preserving was less difficult than acquiring. But it seems extremely strange to find him so hurried away by his zeal—so wrapt up in the matter immediately before him—as to state, in a manner diametrically reversed, matters of fact in the history and usages of the commonwealth. We allude to a remarkable passage in that splendid oration against Aristocrates, which will bear a comparison with any of the others, though Plutarch says that it was composed in his twenty-seventh or twenty-eighth year ; and it certainly was delivered when he was only thirty, by Euthykrates, for whom it was written. The object of it was to attack a decree denouncing outlawry against any person who should slay Charidemus, as a remuneration for the services of that foreign general. In the beautiful passage to which we are referring, the orator contrasts with this lavish distribution of publick honours, nay, this invention of a new privilege, the slowness of their ancestors even to admit that individuals, and individuals of their own country, had the merit of saving the state, and the scanty reward which they deemed equivalent to any services a stranger could render. His argument is, that when foreigners had conferred the highest benefits on the state, they never were in return protected by such decrees as the one in favour of Charidemus, but obtained the rights of citizenship, which were not then prostituted, and therefore were deemed of high value ; and he names two instances of this judicious system of rewards, Menon and Perdiccas. Now, in the oration upon the government of the commonwealth, he is inveighing against the prostitution of publick honours, and particularly that lavish dis-

tribution of the rights of citizenship; and he repeats, almost word for word, the passage which he had composed for Euthykrates; only that he says their ancestors never thought of giving those rights of citizenship to Menon and Perdiccas, but only an exemption from tribute, deeming the title of citizen to be a reward far greater than any service could justify them in bestowing. In the oration against Aristocrates, after describing the services rendered by Menon, he says, in return for these benefits, ‘our ancestors did not pass a decree of outlawry against any one who should attempt Menon’s life *ἀλλὰ πολίειαν ἔδωκαν*—and this honour they deemed an ample compensation.’* But, in the oration upon the Commonwealth, after describing Menon’s services in the same words, he says, ‘*οὐκ ἐψηφισάντο πολίειαν, ἀλλ’ ἀβελειαν ἔδωκαν μόνον.*’† Again, in the two orations, he describes Perdiccas’s services in the same words; but in the one, he says, our ancestors did not decree that whoever attempted his life should be outlawed, *ἀλλὰ πολίειαν ἔδωκαν μόνον*; and in the other he says, *οὐκ ἐψηφισάντο πολιτεῖαν ἀλλ’ ἀβελειαν ἔδωκαν μόνον*, and adds, that they withheld the *πολίεια*, ‘because they deemed their country great, and venerable, and glorious, and the privilege of bearing its name far above any stranger’s deserts.’‡ Both orations then proceed to complain, but in different language, of the manner in which that title had been prostituted.

From the detailed examination into which we have entered of these repetitions, two conclusions may be drawn, both highly illustrative of the degree in which oratory among the Greeks was considered as an art demanding the utmost care, and calculated to exhibit the mere display of skill, as well as to attain more important objects. In the first place, we find that the greatest of all orators never regarded the composition of any sentence worthy of him to deliver, as a thing of easy execution. Practised as he was, and able surely, if any man ever was, by his mastery over language, to pour out his ideas with facility, he elaborated every passage with almost equal care. Having

* Or. Græc. Tom. I. Pt. 2. p. 687.

† Id. I. 173.

‡ It might have been supposed that, in the oration against Aristocrates, *πολιτεία* had, by an error, crept into the MSS. instead of *ατιτεία*; but, besides that, the expression *ἰκανή τιμὴ* applied to the reward the first time it is mentioned, would not be justly descriptive of the merely pecuniary exemption in which the *ἀβελεια* consists; the second instance, that of Perdiccas, is immediately followed by the reason, namely, that the *το γίνεσθαι πολίτας παρ’ ὑμῖν* was always held a sufficient honour to call forth any services.

the same ideas to express, he did not, like our easy and uncontented moderns, clothe them in different language, for the sake of variety; but reflecting that he had, upon the fullest deliberation, adopted one form of expression as the best, and because every other must needs be worse, he used it again without any change, unless further labour and more trials had enabled him in any particular to improve the workmanship. They who speak or write with little or no labour to themselves, and proportionably small satisfaction to others, would, in similar circumstances, find it far easier to compose anew, than to recollect or go back to what they had finished on a former occasion. Not so the mighty Athenian, whom we find never disdaining even to make use of half a sentence which he had once happily wrought, and treasured up as complete; nay, to draw part of a sentence from one quarter and part from another, applying them by some slight change to the new occasion, and perhaps adding some new member,—thus presenting the whole, in its last form, made of portions fabricated at three different periods, several years asunder. Nothing can more strikingly demonstrate how difficult, in the eyes of the first of all orators and writers, that composition was, which so many speakers and authors, in all after ages, have thought the easiest part of their task.

But another inference may be drawn from the comparisons into which we have entered. If they prove the extreme pains taken by the orator, they illustrate as strikingly the delicate sense of rhetorical excellence in the Athenian audience; and seem even to show that they enjoyed a speech as modern assemblies do a theatrical exhibition, a fine drama or piece of musick, which, far from losing by repetition, can only produce its full effect after a first or even a second representation has made it thoroughly understood. It seems hardly possible, on any other supposition, to account for many of the repetitions in Demosthenes. A single sentence, or even a passage of some length, if it contained nothing very striking, might be given twice to a court or a popular assembly in modern times, after no great interval of time; but who could now venture upon making a speech, about two-thirds of which had been spoken at different times, and nearly half of it upon one occasion the very year before? This would be impossible, how little soever there might be of bold figures, and other passages of striking effect. But we find Demosthenes repeating, almost word for word, some of his most striking passages—those which must have been universally known, and the recurrence of which might have been foreseen by the context. It seems to modern readers hardly possible to conceive, that the functions of the critic

thus performed by the Athenians should not have interfered with the capacity of actors or judges, in which it was certainly the orator's business chiefly to address them; and that the warmth of feeling, arising from a sense of the reality of all they were hearing, should not sometimes have been cooled by the recollection of the very artificial display they were witnessing. Yet no fact in history is more unquestionable than the union of the two capacities in the Athenian audience,—their exquisite discrimination and high relish of rhetorical beauties, with their susceptibility of the strongest emotions which the orator could desire to excite. The powers of the artist become no doubt all the more wonderful on this account; and no one can deny that he was an artist, and trusted as little to inspiration as Clairon and the other actors, of whose unconcern during the delivery of passages which were convulsing the audience, so many striking anecdotes are preserved. In the whole range of criticism, there is not perhaps a more sound remark than that of Quintilian, which has sometimes been deemed paradoxical, only because it is profound, in his celebrated comparison of the Greek and Roman masters—*Curæ plus in illo; in hoc nature.*

Although the difference between the ancient and modern audience, and, above all other diversities, perhaps, the abundant supply of composition through the press, and the universally diffused habits of reading it, must render it impracticable to restore any thing like the niceties of execution and of criticism which we have been contemplating; yet we may safely affirm, that even the most ordinary assembly of hearers have a far better taste than they generally get credit for. Cicero remarked this long ago; and there is certainly no reason why the observation should be more applicable to a Roman multitude than to any other. ‘*Mirabile est*’ (says he) ‘*cum plurimum in facien-*’ ‘*do intersit inter doctum et rudem, quam non multum differat in judicando.*’ (*De Orat.* III.) But that the chief excellence of the Greek orator, rapid argument, and, still more, striking points strongly and shortly made, and in choice language—always harmonious except where the subject requires a discord, or where sweetness is incompatible with force,—that this would be infallibly successful with a modern audience, when so few of Cicero's beauties could be borne, we conceive to be a proposition which requires no proof beyond the attentive study of almost any of the Athenian's works. Let any reader who has been accustomed to hear debates in Parliament, note what passages have struck him most in those works, and he will find that they are the sort of things which have the most instantaneous success in modern speeches; which produce the most sudden

and thrilling sensations; and, finding in every bosom an echo, occasion the loudest expressions of assent. Now, some speakers may create admiration by careful composition alone, or without sallies; but they do not find their way as the old Greek did to our hearts. Others may find their way thither without the just care of composition; but he united both powers, and concealed, for the time at least, the labour by which the combination was effected. Can we marvel that his success was prodigious—and that it was equally complete with hearers whom he was to move, and with critics whom he was to please? But the experiment which we are suggesting must be made by a very attentive reader; and it may not succeed at the first. He must imbue himself so thoroughly with a knowledge of all the circumstances in which the oration was delivered, that he can enter at once into the situation of the speaker and the hearer; and he must ponder accurately the words used in each fine passage, often read them, and often repeat them, until their power is familiar to his mind, and their force and their harmony to his ear. In no other way can he enter into the feelings with which they were heard by those to whom the language was natural, and the extremely small number of the topics as well known as the features of their own or the orator's countenance.

It will thus be found, that there is not any long and close train of reasoning in the Orations, still less any profound observations, or remote and ingenious allusions; but a constant succession of remarks, bearing immediately upon the matter in hand, perfectly plain, and as readily admitted as easily understood. These are intermingled with the most striking appeals, sometimes to feelings which all were conscious of, and deeply agitated by, though ashamed to own; sometimes to sentiments which every man was panting to utter, and delighted to hear thundered forth—bursts of oratory, therefore, which either overwhelmed or relieved the audience. Such *hits* if we may use a homely phrase, (for more dignified language has no word to express the thing) are the principal glory of the great combatant; it is by these that he carries all before him, and to them that he sacrifices all the paltry graces which are the delight of the Asian and Italian schools. Suppose the audience in the state we are figuring, it is evident that one sentence, or parenthesis, or turn of expression—a single phrase—the using a word, or pronouncing a name, at the right place and in the just sense, may be all that is wanting to rouse the people's feelings, or to give them vent. Now in this way, and not by chains of reasoning, like mathematical demonstration or legal argument, it is that Demosthenes carries us away; and it is in no

otherwise that an assembly at the present day is to be inspired and controlled. Whosoever among the moderns has had great success in eloquence, may be found not perhaps to have followed the Grecian master, but certainly in some sort to have fallen into his track. Had he studied correctness equally, the effect would have been heightened, and a far more excellent thing would have been offered to our deliberate admiration, after its appeal to the feelings had been successfully made.

In illustration of these remarks, we might refer to the fine passages upon which we have already commented, only with the view of examining their composition. Who, for instance, can doubt that the *ἀνέλογι καὶ καίνον* is a burst of the very kind most adapted to electrify an English House of Commons? Indeed we may go further; for, change Macedon into Corsica, and substitute Europe for Greece, the passage itself might have been pronounced at any time during the late war with infallible success—or perhaps, in the present day, we might apply it to the Calmuck members of the Holy Alliance. But let us attend to one or two of his turns, where the argument is more enlarged. In the oration upon the Chersonese, his principal object is to defend Diopceithes against the charge of having caused the war by his inroad into Thrace, and to obtain for him the support of the country in those operations necessary to support his army; and he begins by grappling with the arguments of those, who are so ready to call every thing done by Diopceithes an attack upon Philip, and yet never can see any harm in Philip who had done all but attack their arsenals: And observe how suddenly he turns this trite topic into a conclusive answer to every thing urged by those same partisans of Philip against Diopceithes, and, as it were, finishes the discussion at the first blow.

‘But, for Heaven’s sake, let them not still pretend that Philip, so long as he lets Attica and the Piræus alone, neither wrongs the country nor wages war against it. If this be their notion of right—this their definition of peace—unjust, indeed, and intolerable it manifestly is, and fatal to your security;—but, at all events, it is utterly repugnant to the charges with which those very men are bearing down Diopceithes: For, with what consistency can they suffer Philip to do every one act short of invading Attica, and call it peace; and yet, the moment Diopceithes succours the Thracians, accuse him of making war upon Philip?’* After showing the dangerous tendency of Philip’s projects, and the evils of letting him bring the war near their country, he breaks out into a vehement inculpation

* Or. Græc. I. 91.

of the Athenians, for their numberless negligences and follies in the conduct of their affairs. This passage has all the characteristic fire and rapidity and point of the orator; it affords, too, an example of a very fine repetition, in which the same words are used a second time with the most powerful effect, and the whole is brought to bear full upon the question of Diopeithes, which is first introduced by a skilful parenthesis. The orator's favourite figure of antithesis is not spared; * and the original is as sonorous to the ear as it is striking by the sense with which it is so overinformed.

‘ Ἡμεῖς οὐτε χρηματα εισφέρειν βουλομένηα, οὐτε αὐτοὶ στρατευέσθαι τολμαίμεν, οὐτε τῶν κοινῶν ἀπέχισθαι δυναμένηα, οὐτε τὰς συντάξεις Διοπίθεϊ διδοίμεν, οὐδ’ ὅτ’ ἂν αὐτὸς αὐτὰ πορίσθῃται, ἐπαινοῦμεν, ἀλλὰ βασκαίνομεν καὶ σκοποῦμεν, ποθὲν καὶ τι μέλλει ποιεῖν, καὶ πάντα τὰ τοιαῦτα, οὐδ’ ἐπιδηπὲρ οὕτως ἐχομένη, τὰ ἡμεῖτε[†] αὐτῶν πράττειν ἐβλομένη. ἀλλ’ ἐν μὲν τοῖς λόγοις, τοὺς τῆς πόλεως λειτουργίας ἀξία ἐπαινοῦμεν[†] ἐν δὲ τοῖς ἐργοῖς τοῖς ἐναντιούμενοις τοῦτοις συναγωνίζομεθα. Ὑμεῖς μὲν τοῖνον εἰσβάτε ἕκαστε τὸν παρόντα ἐράβαν, τί οὖν χρὴ ποιεῖν; ἐγὼ δ’ ὑμᾶς ἐρωτῆσαι βουλόμαι; τί οὖν χρὴ λέγειν; εἰ γὰρ μήτε ἰσοισέει, μήτε αὐτοὶ στρατεύεσθαι, μήτε τῶν κοινῶν ἀφεξέσθαι, μήτε τὰς συντάξεις Διοπίθεϊ δασιτε, μήτε ὅτ’ ἂν αὐτοὺς αὐτὰ πορίσθῃται, εἰσασιτε, μήτε τὰ ὑμεῖτε[†] αὐτῶν πράττειν ἐβλήσσετε, οὐκ ἔχω τί λέγων· εἰ γὰρ ἡδὴ τοσαύτην ἐξουσίαν τοῖς αἰτιασθῆαι καὶ διαβαλλέναι βουλομένοις δίδοτε, ὥστε καὶ περὶ ὧν ἂν φασὶ μέλλειν αὐτὸν ποιεῖν, καὶ περὶ τούτων προκαταγορεύοντων ἀκροασθῆαι, τί ἂν τις λέγοι; (Reiske Or. Gr. l. 95.)

‘ You neither chuse to contribute your money—nor dare to serve in person—nor bear to sacrifice your shares in the distributions—nor do you furnish to Diopeithes the appointed supplies—nor give him credit for supplying himself, but vilify him for what he has done, and pry into what he is going to do: † nor can you apply yourselves to the management of your own affairs; but you go on lauding, by your words, those whose councils are worthy of their country, while, by your actions, you are straining every nerve for their antago-

* The love of this figure, as is well known, was one of the very few parts of his oratory upon which the vile scurrility of the Greek satirists (or rather buffoons) could fix. Even those abandoned writers, shameless as they were in their attacks upon the orator's life, which by fabrications they could misrepresent, durst not sneer at his works, because they were before the public. An extreme care of composition, and fondness for antithesis, was all they could lay to his charge. Thus, ironically, he is termed—*μισῶν λόγους ἀνθρώπου, οὐδὲν πωπὸς ἀντιθέων εἶπαι οὐδέν*.—*Athen. VI. 224.*

† His accustomed *πάντα τὰ τοιαῦτα* is also here, in which a feebleness of sense perhaps, was covered by the effect of the sound in closing a period or member.

nists. Then, you are perpetually asking of each speaker who appears—what is to be done? But I would fain ask *you*—what is to be said? For if you * will neither contribute, nor serve, nor sacrifice your shares, nor furnish Diopceithes his supplies, nor suffer him to supply himself, nor attend to your own affairs, I know not what is to be said; for, if you will give such license to those who are sifting and calumniating his conduct, that you must lend an ear both to their predictions of what he may hereafter do, and to the positive charges which they ground on those predictions, what *can* any one say?’ This wonderfully condensed, and most spirited exposure (in the last clause) of the unbearable injustice practised towards the general, must remind every reader of many passages of Mr Fox’s speeches; one in particular we recollect, upon the conduct and consequences of the War, in the debate on Parliamentary Reform in 1797.

In passages of the same effect the Third Philippic especially abounds; in fire and variety, indeed, it is surpassed by none of the lesser orations; and by some it is preferred to all the rest. The argument against trusting Philip’s friends, and giving up those orators who had steadily opposed him, drawn from the example of other states who had fallen into this snare, as Oritum, Eretria, and Olynthus, merits especial attention. Nothing can be finer than the burst of irony at the close of that part beginning *καλην γ’οι πολλοι*—‘A noble † return have the Oritans met with, for betaking themselves to Philip’s creatures, and abandoning Euptraeus! A noble treatment have the Eretrians received, for dismissing your ambassadors and surrendering themselves to Clitarchus—they are now enslaved, and tortured, and scourged! ‡ Nobly have the Olynthians fared for giving the command of their horse to Lasthenes, while they banished Apollonides!’ Now, every name here pronounced

* We have rendered both portions of the passage in the second person; the original changes from the first to the second, for a reason only applicable to the Greek, namely, the beautiful variety afforded by the flexion. Thus, the first part runs—*βούλομεθα, πολεμεμεν, δυναμεθα, διδομεν, εβελομεν*, &c.; the second, *δωσεις, εβελησεις*, &c. The force of *προκατηγορευειαν*, following *μελλειν*, as it does, can only be rendered by the repetition in the text, which gives the sense accurately.

† The literal translation ‘fine’ or ‘pretty’ expresses the sense completely, but is too colloquial.

‡ There is no giving the force of the Greek here—*δουλευουσιν γε μαρτυρομενοι και Αρεβλουμενοι*.—Or. Gr. I. 128.

awakened in the audience the recollection of events deeply interesting to them; and the few words applied to each were sufficient to bring up the most lively idea of those circumstances on which the orator desired to dwell.

Both the orations upon the embassy afford many fine examples of the same kind. In that of Demosthenes, we may note the observations upon his motives in preferring the charge, especially the part beginning σκοπεῖτε εἰ ἐφ' οἷς, *—the description of Philip's peculiar fortune, that when he stood in need of mischievous men to do his work, πονηρῶν ἀνθρώπων, he always found men even more mischievous than he wanted, πονηροὺς τέλους εὐρεῖν ἢ βουλετο,—perhaps, too, the bitter description of the Athenian populace, which he puts into the mouths of his adversaries, but seems to have wrought as highly as if he meant to adopt it.† But the oration for Ctesiphon abounds in these passages more than all the rest, and in a far greater variety. It may suffice to remind the classical reader of the powerful description of Philip, where he contrasts his conduct with that of the Athenians, and presents him wounded and maimed, but cheerfully abandoning to fate any of his limbs, provided what was left might live in honour and renown; the exposure of the variance between the charge and the decree on which it purports to proceed, particularly the passage that follows the decree; the exposure of Æschines's inconsistency in ascribing to fortune the favourable result of a mere statesman's councils, while he imputes to those councils the disasters that arise in the operations of the war; the appeal to his own services, which had, for the first time, obtained for Athens the extraordinary honour of a crown from the other States of Greece, the question now being, whether the very ordinary honours of the civic crown had been rightly decreed to him; with almost every other sentence of that long and wonderful passage which immediately follows his Theban Decree; and more especially the part beginning εἰ γὰρ ταῦτα προέβλεπον. Upon these, however, we have the less occasion to enlarge here, as they will fall afterwards under consideration with reference to the subject of these remarks, when we discuss the merits of the translation, and offer the specimens we have promised.

The grand excellence which we have been contemplating, is, if not peculiar to Demosthenes, at least possessed by him in a degree prodigiously superior to any other orator of ancient times, Æschines excepted, who abounds in fine passages of a similar description, though more diffuse, and more verbose also, and less cogent in their effect, as well as rapid in succession,

* Or. Gr. I. 410.

† Ib. 383.

His richness is, however, truly magnificent, and appears almost to have been a compensation for the diminution of strength in the judgment of Cicero, who indeed resembles him more than his great rival, though it is impossible to think that he formed his style upon either model. The reader who, without studying his masterpiece, the defence of his conduct in the embassy, would form at once an idea of Æschines's beauties, and his more luxuriant manner, may turn to the truly Demosthenean attack upon Demosthenes, in the oration against Ctesiphon, where he draws his invective from an Athenian law,^{*} analogous to our law of deodands; and to the concluding part of the oration against Timarchus; from one fine burst in which Lucretius has evidently borrowed, in his description of the real hell created by unruly desires—'μη γὰρ οἴσθε'—'τοὺς πειρηκόμενους ποινὰς ἐλαύνει, καὶ κολάζειν δάσιν ἡμῖναις.'—'Think not that it is furies, like those we see on the stage, who chase the wicked, and torment them with flaming torches; but lawless appetites,' &c. &c.—'these are the real furies,' &c. *

Demosthenes studied under Isæus; but no speeches of that orator are preserved, excepting upon mere private causes; and we confess that the total want of interest in the subject, and the minuteness of the topics, has always made a perusal of them so tedious, as to prevent us from being duly sensible of the force and keenness in which he was said to abound. Demosthenes is also understood to have resembled Pericles in his style. But this is a subject upon which no modern can speak, nor indeed any one except those who lived in the days of Demosthenes, and might therefore have received accounts of Pericles from his contemporaries; for it seems certain that he left nothing in writing behind him, and that the orations in Thucydides, which bear his name, were written by others—probably by that historian himself. † (*Quint. III. 1. and XII. 2.*) But Demosthenes is known to have deeply studied that historian; and though the three orations there given as those of Pericles, resemble any thing rather than that 'thunder and lightning' which tradition has ascribed to him, yet there is something in the diction, particularly the chaste and beautiful antitheses, ‡ which may have been copied by the great orator of the succeeding æge. In abundance of general remark, and want of cogent reasoning, they rather resemble the speeches in Sallust. One of them, indeed, is a funeral oration,

* Reiske Or. Gr. III. 187.

† The passage in Cicero (*De Orat. Lib. II.*) seems by no means sufficient evidence of Pericles having left works behind him.

‡ See particularly the first of these speeches, *Thucyd. Lib. I. sub. fin.*

and the other was spoken to sooth the angry passions of the multitude.

Upon the prevailing character of extreme conciseness which has been so often remarked in the style of Demosthenes, and which extends to his figures, to the ornamental as well as the argumentative and narrative parts (if indeed we can make any such distinction in him who had nothing of mere ornament), one observation must be added. If the orations were spoken in all respects as they now appear, it is extremely difficult to conceive how they should, in all their parts, have produced their full effect. Possibly, when afterwards written over, some things may have been omitted—some of that expansion curtailed which seems almost indispensable in speaking, as we know for certain that some passages have been left out in both Æschines and Demosthenes, from the allusions to them which are to be found in the replies. It will not be imagined that we, for an instant, think of commending the contrary extreme of diffuseness, of overloading, of redundant point and figure and circumstance into which modern composers of all kinds, both writers and speakers, have run, never satisfied without exhausting each idea, and running down, as it were, every topic that presents itself. Yet one can hardly suppose any audience so quick, as, in the time required for uttering two or three words, to seize the whole meaning which they allude to, rather than convey. ‘Vita illa brevis et abruptum sermonis genus, quod otiosum forte lectorem, minus fallit, audientem transvolat, nec dum repetatur expectat.’ Even the celebrated simile in the great speech, which has been so much admired by those who judged of its effect as readers, the *ὥσπερ νεφός*, seems liable to this remark; the words that go before scarcely prepare the hearer sufficiently for what is coming, and the speaker is in the middle of something else before the due impression can have been made. It deserves our attention, that in another passage, where a similar figure is introduced, some MSS. add another word. In most editions, no doubt, it is *ὥσπερ χειμαρρῶνς ἀν’ ὅπαν τοῦτο τὸ πρᾶγμα εἰς τὴν πόλιν εἰσέπει;* but in one MS. which Taylor has followed,* it is *ὥσπερ σκηπτὸς ἢ χειμαρρῶνς*. In applying to modern languages the rules of rigorous conciseness; in teaching those who must use instruments comparatively so feeble, that most difficult

* See Reiske, I. 278. So Wolf. &c. In another passage of the same oration (292), *σκηπτὸς ἢ χειμῶν* is used in all the MSS. which omit the former word in the first passage. But we cannot help regarding the *χειμῶν* as an interpolation,—which seems to be Reiske’s opinion also—vid. note in Tom. XI.

lesson 'to blot,'—a lesson as hard to an author as 'to forget' is to a lover, and for the same reason, his fondness—it must be distinctly admitted, not only that more words are required to express the same ideas, but that it may often be necessary to crowd more ideas into the same passage, in order to make only an equal impression to what the ancient would have accomplished by the powers of his finer language. Thus, *χειμαρρῶν* both signifies, in one word, a winter-torrent, and, by its fine sound, produces on the hearer an effect equal to our translation of both *σηπτός* and *χειμαρρῶν* together. Consider for a moment the fine words collected in any of Demosthenes's grander passages, as the famous oath, where we have such verbs as *προκινδυνεύσαντας* and *παραδιδόμενους*. Even admitting that we have something like the aorist in English, at any rate we have no participles which in one word convey the ideas of action and time together; then we have no particles which enable one word to express a whole sentence as here—'exposing themselves to dangers in warding off a meditated attack;' or 'for the common safety of Greece'—and, lastly, we have few or none of those words which so fill the ear as to render a variation of the idea, by adding other words, superfluous. With them a word often produced the whole effect desired; while we must supply the defect of strength by addition. It must, on the other hand, be allowed, that our language gains considerably in delicacy what it loses in force. While many of the words in most ordinary use among the ancients, recalled, by their structure, their very base origin, and were indeed powerful in proportion to the plainness with which that origin was perceived, we question if there be one word in use among us, in serious composition, which savours of an indelicate etymology; and even the expressions allowed in lighter works, are only indelicate to those who know the foreign language they come * from. At the same time, we are aware that a certain violence of expression, in which Demosthenes and Æschines both indulge, may, independent both of the structure of the language, and of the difference of manners, be deemed to partake of coarseness. To this charge, perhaps, the saying of Dr Johnson may afford a concise and not unjust answer—'Big thinkers require big words.' †

* Independent of the phrases of unequivocal grossness which ancient manners allowed to be bandied about in debate, words of an impure origin were transferred to an ordinary acceptation, the etymon being however plain to every Greek who heard them—as *καταπυρός*, *βδελυγός*, &c. Such words as *rascal*, *gadso*, &c., with us, are of foreign origin, which veils their grossness.

† When Demosthenes describes (in the oration upon the Embaa-

It may not be unfit to close this article, as we did a former one upon Roman eloquence, with a few words upon the pronunciation of the language among the ancients themselves. A passage in Quintilian then furnished us with the clue; and the Greek Quintilian may render the same service on the present occasion. Dionysius of Halicarnassus plainly indicates, in a chapter of his Treatise on Composition, which treats of the Letters, that the Greeks pronounced in a manner wholly different from our Southern neighbours, and much more nearly resembling our own method, and that used upon the Continent. Thus, he says, α is, when long, the most sonorous of the vowels, and is pronounced by opening the mouth as wide as possible (ανοιγμένου επι πλειον), and raising the breath upwards, προς τον ουρανον, which commentators consider as a metaphor for the *palate*; υ is pronounced, he says, by contracting the lips greatly, and stiffling (πνιγείναι) the breath, and issuing a small sound; the sound of ι, in like manner, is described exactly as the Scotch and foreigners pronounce it; ε is described differently from both the English and Scotch pronunciation, and resembling the Continental, if we mistake not, being the sound of the Latin *e* both in this and foreign countries. Of ι, no distinct account is given, nor any account at all of the diphthongs.* Of the consonants, χ was evidently pronounced as the Scotch and foreign nations sound it; for, of the three, α, χ and γ, it is placed at the opposite extreme to α, γ being put as the middle between them, whereas the English confound it almost entirely with α. About ζ, there may be some doubt; for, in one place, we are told that it consists of σ and δ † mingling, but so as to have the sound of both; and, in another, it is described as much more pleasing to the ear than the other double consonants. It appears, therefore, to have had a sound more soft than our Scotch pronunciation, which preserves the δ and σ distinctly, but not

sy) the attempts of Philip to corrupt the Orator, he uses the word δισκοδωνισε, tried or sounded by making the money tinkle or chink in their ears; a figure taken from the manner of trying horses by ringing a bell near them. Another 'big thinker,' in the Impeachment of 1806, said of the Defendant—'Does he see money when it shines? Does he hear it when it chinks?'

* The use of the diphthong αυ, αυ, in Aristophanes, to express the barking of a dog, as we say, *bow, wow*, clearly shows that diphthong to have been sounded in the Scotch and Continental manner.

† The σ is put before δ; though, in describing the other two double consonants, it is put after δ. Is this an error in the transcriber?—or is it a Doricism?—For we know that the Doric transposed the σ in ψ.

quite so near the soft *s* as the English pronunciation makes it. Of certain sounds peculiar to the English pronunciation, no trace is to be found in this author's remarks; § as the 'short,' and also the long sound of the same vowel, if indeed that be not rather a diphthongal sound. But persons more learned in these matters than we can pretend to be, may be aware of other authorities. The well-known saying of Milton, against pronouncing Latin in the English way, was, by him, confined to that language; but there can be no doubt that his practice extended to Greek also.

The volumes of M. Planche's work now before us complete the most important, perhaps the only interesting portion of the Orations; for we now have the three orations of Æschines, and all those of Demosthenes upon public affairs, or subjects connected in any way with them. When the remaining three volumes reach us, containing only the orations upon private causes, we shall resume and close the discussion, and shall examine particularly, as we have already more than once promised, the merits of the Translations.

ART. VI. 1. *Letter to James Scarlett Esq., M. P. on his Bill relating to the Poor-Laws.* By a SURREY MAGISTRATE. London, 1821.

2. *An Address to the Imperial Parliament, upon the Practical Means of gradually abolishing the Poor-Laws, and Educating the Poor Systematically. Illustrated by an Account of the Colonies of Fredericks-Oord, in Holland, and of the Common Mountain, in the South of Ireland. With General Observations.* Third Edition. By WILLIAM HERBERT SAUNDERS, Esq. London, 1821.

3. *On Pauperism and the Poor-Laws. With a Supplement.* London, 1821.

WE are friendly to the main principle of Mr Scarlett's Bill; but are rather surprised at the unworkmanlike manner in which he has set about it.

To fix a maximum for the Poor-rates, we should conceive to be an operation of sufficient difficulty and novelty for any one bill. There was no need to provoke more prejudice, to rouse more hostility, and create more alarm, than such a bill would naturally do. But Mr Scarlett is a very strong man; and, be-

§ Dion. Hal. de Struct. Orat. Sect. xvi.

fore he works his battering ram, he chooses to have the wall made of a thickness worthy of his blow—capable of evincing, by the enormity of its ruins, the superfluity of his vigour, and the certainty of his aim. Accordingly, he has introduced into his Bill a number of provisions, which have no necessary, and indeed no near connexion with his great and main object; but which are sure to draw upon his back all the Sir John's and Sir Thomas's in the House of Commons. It may be right, or it may be wrong, that the chargeable poor should be removed; but why introduce such a controverted point into a bill framed for a much more important object, and of itself calculated to produce so much difference of opinion? Mr Scarlett appears to us to have been not only indiscreet in the introduction of such heterogenous matter, but very much mistaken in the enactments which that matter contains.

‘ And be it further enacted, That from and after the passing of this Act, it shall not be lawful for any Justice of Peace or other person, to remove, or cause to be removed, any poor person or persons from any parish, township or place, to any other, by reason of such person or persons being chargeable to such parish, township or place, or being unable to maintain him or themselves, or under colour of such person or persons being settled in any other parish, township or place, any law or statute to the contrary notwithstanding: Provided always, That nothing in this Act shall in anywise be deemed to alter any law now in force for the punishment of Vagrants, or for removing poor persons to Scotland, Ireland, or the Isles of Guernsey, Jersey, and Man.—And be it further enacted, That in all cases where any poor person, at the time of the passing this Act, shall be resident in any parish, township or place, where he is not legally settled, and shall be receiving Relief from the Overseers, Guardians, or Directors of the Poor of the place of his legal settlement, the said Overseers, Guardians, or Directors, are hereby required to continue such Relief, in the same manner, and by the same means, as the same is now administered, until one of His Majesty's Justices of the Peace, in or near the place of residence of such poor person, shall, upon application to him, either by such poor person, or any other person on his behalf, for the continuance thereof, or by the said Overseers, Guardians, or Directors of the poor, paying such Relief, for the discharge thereof, certify that the same is no longer necessary, —*Bill*, pp. 3-4.

Now, here is a gentleman, so thoroughly and so justly sensible of the evil of the Poor-Laws, that he introduces into the House of Commons a very plain, and a very bold measure, to restrain them; and yet, in the very same bill, he abrogates the few impediments that remain to universal mendicity. The present law says, ‘ Before you can turn beggar in the place of your

'residence, you must have been born there, or you must have rented a farm there, or served an office;' but Mr Scarlett says, 'You may beg anywhere where you happen to be. I will have no obstacles to your turning beggar; I will give every facility and every allurement to the destruction of your independence.' We are quite confident that the direct tendency of Mr Scarlett's enactments is to produce these effects. Labourers living in one place, and settled in another, are uniformly the best and most independent characters in the place. Alarmed at the idea of being removed from the situation of their choice, and knowing they have nothing to depend upon but themselves, they are alone exempted from the degrading influence of the Poor-Laws, and frequently arrive at independence by their exclusion from that baneful privilege which is offered to them by the inconsistent benevolence of this Bill. If some are removed, after long residence in parishes where they are not settled, these examples only ensure the beneficial effects of which we have been speaking. Others see them, dread the same fate, quit the mug, and grasp the flail. Our policy, as we have explained in a previous article, is directly the reverse of that of Mr Scarlett. Considering that a poor man, since Mr East's Bill, if he asks no charity, has a right to live where he pleases, and that a settlement is now nothing more than a beggar's ticket, we would gradually abolish all means of gaining a settlement, but those of birth, parentage, or marriage; and this method would destroy litigation as effectually as the method proposed by Mr Scarlett.

Mr Scarlett's plan too, we are firmly persuaded, would completely defeat his own intentions; and would inflict a greater injury upon the poor than this very Bill intended to prevent their capricious removal. If his Bill had passed, he could not have passed. His post-chaise on the Northern Circuit would have been impeded by the crowds of houseless villagers, driven from their cottages by landlords rendered merciless by the Bill. In the mud—all in the mud (for such cases made and provided) would they have rolled this most excellent Counsellor. Instigated by the devil and their own malicious purposes, his wig they would have polluted, and tossed to a thousand winds the parchment bickerings of Doe and Roe. Mr Scarlett's Bill is so powerful a motive to proprietors for the depopulation of a village—for preventing the poor from living where they wish to live,—that nothing but the conviction that such a bill would never be suffered to pass, has prevented those effects from already taking place. Landlords would, in the contemplation of such a bill, pull down all the cottages of persons not belonging to

the parish, and eject the tenants; the most vigorous measures would be taken to prevent any one from remaining or coming who was not absolutely necessary to the lord of the soil. At present, cottages are let to any body; because, if they are burdensome to the parish, the tenants can be removed. But the impossibility of doing this would cause the immediate demolition of cottages; prevent the erection of fresh ones where they are really wanted; and chain a poor man for ever to the place of his birth, without the possibility of moving. If every body who passed over Mr Scarlett's threshold were to gain a settlement for life in his house, he would take good care never to be at home. We all boldly let our friends in, because we know we can easily get them out. So it is with the residence of the poor. Their present power of living where they please, and going where they please, entirely depends upon the possibility of their removal when they become chargeable. If any mistaken friend were to take from them this protection, the whole power and jealousy of property would be turned against their locomotive liberty;—they would become *adscripti glebæ*, no more capable of going out of the parish than a tree is of proceeding, with its roots and branches, to a neighbouring wood.

The remedy here proposed for these evils is really one of the most extraordinary we ever remember to have been introduced into any Act of Parliament.

‘ And whereas it may happen, that in several parishes or townships now burdened with the maintenance of the Poor settled and residing therein, the owners of lands or inhabitants may, *in order to remove the residence of the labouring Poor* from such parishes or places, destroy the cottages and habitations therein, now occupied by the labourers and their families: And whereas also it may happen, that certain towns and villages, maintaining their own poor, may, by the residence therein of labourers employed, and working in other parishes or townships lying near the said towns and villages, be charged with the burden of maintaining those who do not work, and before the passing of this Act were not settled therein; For remedy thereof, Be it Enacted, by the authority aforesaid, That in either of the above cases, it shall be lawful for the Justices, at any Quarter-sessions of the peace held for the county in which such places shall be, upon the complaint of the Overseers of the Poor of any parish, town, or place, that by reason of either of the causes aforesaid, the Rates for the Relief of the Poor of such parish, town, or place, have been materially increased, whilst those of any other parish or place have been diminished, to hear and fully to inquire into the matter of such complaint; and in case they shall be satisfied of the truth thereof, then to make an order upon the Overseers of the Poor of the parish or township, whose Rates have been diminished by the

causes aforesaid, to pay to the complainants such sum or sums from time to time, as the said Justices shall adjudge reasonable, not exceeding, in any case, together with the existing Rates, the amount limited by this Act, as a contribution towards the Relief of the Poor of the parish, town, or place, whose Rates have been increased by the causes aforesaid; which order shall continue in force until the same shall be discharged by some future order of Sessions, upon the application of the Overseers paying the same, and proof that the occasion for it no longer exists: Provided always, that no such order shall be made, without proof of notice in writing of such intended application, and of the grounds thereof having been served upon the Overseers of the Poor of the parish or place, upon whom such order is prayed, fourteen days at the least before the first day of the Quarter-sessions, nor unless the Justices making such order shall be satisfied that no money has been improperly or unnecessarily expended by the Overseers of the Poor praying for such order; and that a separate and distinct account has been kept by them, of the additional burden which has been thrown upon their rates by the causes alleged. —*Bill*, pp. 4-5.

Now this clause, we cannot help saying, appears to us to be a receipt for universal and interminable litigation all over England—a perfect law-hurricane—a conversion of all flesh into plaintiffs and defendants. The parish A has pulled down houses, and burthened the parish B. B has demolished to the misery of C; which has again misbehaved itself in the same manner to the oppression of other letters of the alphabet. All run into parchment, and pant for revenge and exoneration. Though the fact may be certain enough, the causes which gave rise to it may be very uncertain; and assuredly will not be admitted to have been those against which the statute has denounced these penalties. It will be alleged, therefore, that the houses were not pulled down to get rid of the poor, but because they were not worth repair—because they obstructed the squire's view—because rent was not paid. All these motives must go before the Sessions, the last resource of legislators—the unhappy Quarter-sessions,—pushed to the extremity of their wit by the plump contradictions of parish perjury.

Another of the many sources of litigation in this clause, is as follows. A certain number of workmen live in a parish M—not being settled in it, and not working in it before the passing of this act. After the passing of this act, they became chargeable to M, whose poor-rates are increased. M is to find out the parishes relieved from the burthen of these men, and to prosecute at the Quarter-sessions for relief. But suppose the burthened parish to be in Yorkshire, and the relieved parish in Cornwall. Are the Quarter-sessions in Yorkshire to make an order of annual payment upon a parish in Cornwall? and Cornwall,

in turn, upon Yorkshire? How is the money to be transmitted? What is the easy, and cheap remedy, if neglected to be paid? And if all this could be effected, what is it, after all, but the present system of removal rendered ten times more intricate, confused, and expensive? Perhaps Mr Scarlett means, that the parishes where these men worked, and which may happen to be within the jurisdiction of the Justices, are to be taxed in aid of the parish M, in proportion to the benefit they have received from the labour of men whose distresses they do not relieve. We must have then a detailed account of how much a certain carpenter worked in one parish, how much in another; and enter into a species of evidence absolutely interminable. We hope Mr Scarlett will not be angry with us—we entertain for his abilities and character the highest possible respect; but great lawyers have not leisure for these trifling details. It is very fortunate, that a clause so erroneous in its views should be so inaccurate in its construction. If it were easy to comprehend it, and possible to execute it, it would be necessary to repeal it.

The shortest way, however, of mending all this, will be entirely to omit this part of the Bill. We earnestly, but with very little hopes of success, exhort Mr Scarlett not to endanger the really important part of his project, by the introduction of a measure which has little to do with it, and which any Quarter-session country squire can do as well, or better than himself. The real question introduced by his Bill is, whether or not a limit shall be put to the Poor-Laws; and not only this, but whether their amount shall be gradually diminished. To this better and higher part of the law, we shall now address ourselves.

In this, however, as well as in the former part of his Bill, Mr Scarlett becomes frightened at his own enactments, and repeals himself. Parishes are first to relieve every person actually resident within them. This is no sooner enacted, than a provision is introduced to relieve them from this expense, tenfold more burthensome and expensive than the present system of removal. In the same manner, a maximum is very wisely and bravely enacted; and, in the following clause, is immediately repealed.

Provided also, and be it further Enacted, That if, by reason of any unusual scarcity of provisions, epidemic disease, or any other cause of a temporary or local nature, it shall be deemed expedient by the Overseers of the Poor, or other persons having, by virtue of any local Act of Parliament, the authority of Overseers of the Poor of any parish, township, or place, to make any addition to the sum assessed for the relief of the Poor, beyond the amount limited by this Act, it shall be lawful for the said Overseers, or such other persons, to give public notice in the several Churches, and other places

of worship, within the same parish, township, or place, and if there be no Church or Chapel within such place, then in the parish Church or Chapel next adjoining the same, of the place and time of a general meeting to be held by the inhabitants paying to the relief of the Poor within such parish, township, or place, for the purpose of considering the occasion, and the amount of the proposed addition; and if it shall appear to the majority of the persons assembled at such meeting, that such addition shall be necessary, then it shall be lawful to the Overseers or other persons having power to make assessments, to increase the assessment by the additional sum proposed and allowed at such meeting, and for the Justices by whom such rate is to be allowed, upon due proof upon oath to be made before them, of the resolution of such meeting, and that the same was held after sufficient public notice to allow such rate with the proposed addition, specifying the exact amount thereof, with the reasons for allowing the same, upon the face of the rate.'—*Bill*, p. 3.

It would really seem, from these and other qualifying provisions, as if Mr Scarlett had never reflected upon the consequences of his leading enactments till he had penned them; and that he then set about finding how he could prevent himself from doing what he meant to do. To what purpose enact a maximum, if that maximum may at any time be repealed by the majority of the parishioners? How will the compassion and charity which the Poor-Laws have set to sleep be awakened, when such a remedy is at hand as the repeal of the maximum by a vote of the parish? Will ardent and amiable men form themselves into voluntary associations to meet any sudden exigency of famine and epidemic disease, when this sleepy and sluggish method of overcoming the evil can be had recourse to? As soon as it becomes *really impossible* to increase the poor fund by law—when there is but little, and there *can* be no more, that little will be administered with the utmost caution; claims will be minutely inspected; idle manhood will not receive the scraps and crumbs which belong to failing old age; distress will make the poor provident and cautious; and all the good expected from the abolition of the Poor-Laws will begin to appear. But these expectations will be entirely frustrated, and every advantage of Mr Scarlett's Bill destroyed, by this fatal facility of eluding and repealing it.

The danger of insurrection is a circumstance worthy of the most serious consideration in discussing the propriety of a maximum. Mr Scarlett's Bill is an infallible receipt for tumult and agitation, whenever corn is a little dearer than common. 'Repeal the maximum,' will be the clamour in every village, and we be to those members of the village vestry who should oppose the measure. Whether it was really a year of scarcity,

and whether it was a proper season for expanding the bounty of the law, would be a question constantly and fiercely agitated between the farmers and the poor. If the maximum is to be quietly submitted to, its repeal must be rendered impossible but to the Legislature. 'Burn your ships, Mr Scarlett. You are doing a wise and a necessary thing; don't be afraid of yourself. Respect your own nest. Don't let clause A repeal clause B. Be stout. Take care that the Rat Lawyers on the Treasury Bench do not take the oysters out of your Bill, and leave you the shell. Do not yield one particle of the wisdom and philosophy of your measure to the country gentlemen of the earth.'

We object to a *maximum* which is not rendered a decreasing maximum. If definite sums were fixed for each village, which they could not exceed, that sum would, in a very few years, become a minimum, and an established claim. If 80s. were the sum allotted for a particular hamlet, the poor would very soon come to imagine that they were entitled to that precise sum, and the farmers that they were compelled to give it. Any maximum established should be a decreasing, but a very slowly decreasing maximum,—perhaps it should not decrease at a greater rate than ten shillings per cent. per annum.

It may be doubtful also, whether the first Bill should aim at repealing more than 20 per cent. of the present amount of the Poor-rates. This would be effected in forty years. Long before that time, the good or bad effects of the measure would be fairly estimated: If it is wise that it should proceed, let posterity do the rest. It is by no means necessary to destroy, in one moment, upon paper, a payment which cannot, without violating every principle of justice, and every consideration of safety and humanity, be extinguished in less than two centuries.

It is important for Mr Scarlett to consider, whether he will make the operation of his Bill immediate, or interpose two or three years between its enactment and first operation.

We entirely object to the following clause; the whole of which ought to be expunged.

And be it further enacted, That it shall not be lawful for any Churchwarden, Overseer, or Guardian of the Poor, or any other person having authority to administer Relief to the Poor, to allow or give, or for any Justice of the Peace to order, any relief to any person whatsoever, who shall be married after the passing of this Act, for himself, herself, or any part of his or her family, unless such poor person shall be actually, at the time of asking such relief, by reason of age, sickness, or bodily infirmity, unable to obtain a livelihood, and to support his or her family by work: Provided always, that nothing in this Clause contained shall be construed so as to authorize the granting relief, or making any order for relief, in cases where the same was not lawful before the passing of this Act.

Nothing in the whole Bill will occasion so much abuse and misrepresentation as this clause. It is upon this that the Radicals will first fasten. It will, of course, be explained into a prohibition of marriage to the poor; and will, in fact, create a marked distinction between two classes of paupers, and become a rallying point for insurrection. In fact, it is wholly unnecessary. As the funds for the relief of pauperism decrease, under the operation of a diminishing maximum, the first to whom relief is refused will be the young and the strong; in other words, the most absurd and extravagant consequences of the present Poor-Laws will be the first cured.

Such, then, is our conception of the Bill which ought to be brought into Parliament,—a maximum regulated by the greatest amount of poor-rates ever paid, and annually diminishing at the rate of ten shillings per cent. till they are reduced 20 per cent. of their present value; with such a preamble to the Bill as will make it fair and consistent for any future Parliament to continue the reduction. If Mr Scarlett will bring in a short and simple bill to this effect, and not mingle with it any other parochial improvements, and will persevere in such a bill for two or three years, we believe he will carry it; and we are certain he will confer, by such a measure, a lasting benefit upon his country—and upon none more than upon its labouring poor.

We presume there are very few persons who will imagine such a measure to be deficient in vigour. That the Poor-Laws should be stopped in their fatal encroachment upon property, and unhappy multiplication of the human species,—and not only this, but that the evil should be put in a state of diminution, would be an improvement of our condition almost beyond hope. The tendency of fears and objections will all lie the other way; and a bill of this nature will not be accused of inertness, but of rashness, cruelty, and innovation. We cannot now enter into the question of the Poor-Laws, of all others that which has undergone the most frequent and earnest discussion. Our whole reasoning is founded upon the assumption, that no system of laws was ever so completely calculated to destroy industry, foresight, and economy in the poor; to extinguish compassion in the rich; and, by destroying the balance between the demand for, and supply of, labour, to spread a degraded population over a ruined land. Not to attempt the cure of this evil, would be criminal indolence. Not to cure it gradually, and compassionately, would be very wicked. To Mr Scarlett belongs the real merit of introducing the Bill. He will forgive us the freedom, perhaps the severity, of some of our remarks. We are sometimes not quite so smooth as we ought to be; but we hold Mr Scarlett in very high honour and estimation. He

is the greatest advocate perhaps of his time; and, without the slightest symptom of *tail* or *whiskers*—decorations, it is reported, now as characteristic of the English Bar as wigs and gowns in days of old—he has never carried his soul to the Treasury, and said, What will you give me for this?—he has never sold the warm feelings and honourable motives of his youth and manhood for an annual sum of money and an office—he has never taken a price for public liberty, and public happiness—he has never touched the political Aceldama, and signed the devil's bond for cursing to-morrow what he has blest to-day. Living in the midst of men who have disgraced it, he has cast honour upon his honourable profession; and has sought dignity, not from the Ermine and the Mace, but from a straight path and a spotless life.

ART. VII. *History of the Persecutions endured by the Protestants of the South of France, and more especially of the Department of the Gard, during the Years 1814, 1815, 1816, &c.*
By MARK WILKS. 2 vols. 8vo. London, 1821. pp. 613.

THE Protestants were delivered over to persecution by Louis XIV. as an atonement for his private frailties. They have been sacrificed, by his descendants, to form a party against the Revolution. He was engaged in measures of cruelty and injustice, in the hope of obtaining forgiveness of his sins. They have been persuaded to connive at murder and pillage, rather than offend the fanaticism they had armed in their cause.

The Calvinists had ceased to be a political party in France, before any thoughts were entertained by the government of converting them to the religion of the State. Their *villes de sûreté* had been taken from them, and their political assemblies suppressed by Cardinal Richelieu; the *chambres de l'édit* for trying causes between them and Catholics had been abolished; their synods and consistories had been deprived of every sort of temporal jurisdiction; the great families that had professed their creed, when it served the purposes of ambition, had, in most cases, withdrawn from their communion; and the great body still attached to their faith, had neither the zeal nor the turbulence of their ancestors. Devoted to commerce and manufactures, the descendants of the ancient Hugonots were become peaceable, submissive subjects, rich and industrious citizens. No longer a political body in the State, they were merely a sect or party in the Church.

The theologians of both religions, it is true, continued to

wrangle and abuse one another with their accustomed bitterness; the Priests on neither side were reconciled to the principles or practice of toleration; solitary converts were occasionally gained, but chiefly by the Catholics, who had most to give; the Established Clergy, animated with their ancient hatred of the innovators, were continually soliciting, and frequently obtaining edicts to their prejudice; the Parliaments, and other courts of law, were still hostilely disposed towards them; slight pretences were taken to deprive them of their temples; and, when once demolished, they were not permitted to erect others in their place, or even to assemble in the neighbouring fields for public worship. Their places of sepulture were in many instances closed; and, by a general regulation, they were compelled, as a mark of inferiority, to bury their dead either after sun-set or at break of day. They were forbid to call their religion the Reformed, because it was only a *pretended* reformation; or to style their pastors Ministers of the Word of God, because the word they taught was false, corrupt and profane. They were not allowed to offend the ears of their Catholic neighbours, by singing their psalms out of church, or by ringing their bells in holy week; and, what was of more solid detriment, though Calvinists were not excluded from incorporated trades and professions, the number that could be admitted into those bodies was gradually abridged, and the Direction of them, and even the higher Honours they conferred, were shut entirely against heretics. But, notwithstanding these and other invidious distinctions, in the greater part of France, among the lower and middling classes of the laity, the Protestant and Catholic lived in harmony together, intermarried without scruple, engaged in the same occupations, shared in the same amusements, and separated without enmity or malice, the one to attend his mass, and the other to sing his psalms or slumber at the discourses of his preacher. In the natural course of things, the Protestants would have remained always a numerous body in France, continually recruited from the serious, the pious and the industrious, and in nearly equal proportion deserted by the gay, the ambitious, and the indifferent.

Such was the state of religious parties in France, when Louis XIV., as an expiation for the irregularities of his private life, undertook the conversion of his Protestant subjects. His connexion with Madame de Montespan was reprobated by religion; and, at every recurrence of the solemn festivals of the Catholic worship, it exposed him to the exhortations, censures, and menaces of his spiritual directors. Equally devout and amorous, carried away by his passions, but trembling before his confessor, he was, every Easter, on the point of dismissing his mistress—and

every summer his mistress prevailed over his fears and scruples. The Jubilee of 1676 was a severe trial for their mutual attachment. Unwilling to miss the indulgences proffered on that occasion to the penitent, and moved by the exhortations of Bossuet, he determined, in good earnest, to renounce his mistress, who on her part felt, or affected to feel, the same contrition with her lover. 'They agreed,' says Madame de Caylus, 'to part, and sin no more. Madame de Montespan went to Paris, visited the churches, fasted, prayed, and wept over her frailties. The King, on his part, did all a good Christian ought to do. The jubilee over, and the indulgences secured, it became a question, whether Madame de Montespan should return to Court. Why not? exclaimed her relations, and the most strait-laced even of her friends. Madame de Montespan, by her birth and station, ought to be at Court; there is no harm in going to Court; she may lead as Christian and edifying a life at Court as any where else. Even Bossuet was of that opinion. One difficulty only remained. The King must not be shocked by the unexpected sight of Madame de Montespan. They must, therefore, have a private interview before they meet in public. He must visit her at her own apartment; but, to prevent scandal, some of the gravest and most respectable ladies of the Court will be there, and he must have no conversation with her, except in their presence. The visit was made as had been settled; but insensibly the King drew the lady into a window, where they whispered, wept, and said what is usual on such occasions. In the end, turning round to the company, they made a profound bow to the venerable assembly that had been summoned to witness their repentance, retired into another room—*et il en advint Madame la Duchesse d'Orleans, et ensuite Monsieur le Comte de Toulouse!*'

If nothing but Madame d'Orleans, and the discomfiture of Bossuet and his old ladies, had followed from this ridiculous scene, we should not have thought the story worth insertion; but it was the contrition of the King for this transgression, that led him to attempt the conversion of his Protestant subjects, and engaged him in a series of measures which ended in the revocation of the edict of Nantz. Full of dismay, when he reflected on his relapse, after such solemn vows of repentance, he resolved, as an atonement for his weakness—not to quit his sins, but to gain proselytes to his religion; not to amend his life, but to cure his subjects of their errors; and, to make sure of his object, he set apart a fund for the purchase of conversions, which he placed at the disposal of his secretary Pelisson, a converted Calvinist. Pelisson employed the bishops in the pious traffick; and, to stimulate their zeal, assured them that nothing

would be so consolatory to the King as to have numerous returns of converts transmitted to him. Urged by this consideration, the bishops exerted themselves with effect, and obtained successes beyond expectation. In a short time, nothing was talked of at court but the miracles wrought by Pelisson. 'He was not so learned a man, to be sure, as Bossuet; but he had a finer talent of persuasion.' The conversions, it is true, were not dear; and the price at which they were bought, shows from what description of persons they were procured. In the distant provinces they usually cost a crown a head, and in some instances they were cheaper; the seniors of a family being purchased at that price, and the younger fry thrown into the bargain. As these triumphs of his religion were regularly laid before the King, it was easy to persuade him that his Calvinistic subjects were but slightly attached to their faith; and that, without difficulty, they might be seduced from it by money, or other worldly considerations. Impressed with this conviction, and still anxious and alarmed about his own salvation, he continued and enlarged his donations to the new treasury he had opened for the Church; and when it was seen, that to gain proselytes to his religion was the surest passport to his favour, all France was seized with the rage of conversion. Ministers of State, courtiers, bishops, parish priests, intendants, military officers, all who sought distinction or preferment for themselves, strove in emulation who should most promote the holy work.*

As age abated the passions of Louis, his devotion acquired additional fervour; while the recollection of his youthful irregularities prompted him to do some great and meritorious service to the Church, which might efface the scandal, and obtain the forgiveness of his sins. No enterprise occurred to him more acceptable to heaven, or more honourable to himself, than the extirpation of heresy from his dominions; and the success of his first efforts, as it lowered his opinion of the sincerity of the Hugonots, so it elated him with the thoughts, that Providence had reserved that glory for his reign. His confessor as a Churchman, and his new mistress, Madame de Maintenon, who had her private views to serve, encouraged him in these dispositions. It was only by keeping his conscience in alarm, and by cultivating and strengthening his religious propensities, that Madame de Maintenon could hope to attain the high and apparently impracticable object of her ambition. Her early education among the Calvinists, was far from making her the friend or protectress of their sect. Like other apostates, she

was eager to extinguish the party she had abandoned; and if she felt commiseration for the sufferings of her old associates, she was careful to conceal the sentiment within her breast, lest, in the suspicious mind of the King, it should excite doubts of the sincerity of her faith. In all measures of conversion against the Hugonots, she took, therefore, a zealous and active part; and, when the system of confiscation began, she scrupled not even to participate in their spoils. Her private marriage with the King, is marked by historians as the epoch when the final resolution was taken to eradicate heresy from France.*

But, long before that event, secret consultations had been held by the King, on the means of reconciling his heretical subjects to the Church of Rome; and, in these deliberations, two different, and, in some respects, opposite plans of conversion, had been proposed to him. In both, a certain degree of compulsion was admitted. But the Jansenists, or those rather who were attached in secret to the principles of that hated and persecuted sect, would allow only of that degree of constraint which should induce the Calvinists to reconsider the points on which they differed from the Catholics; and would not hear of receiving into the bosom of the Church, or of admitting to a participation of her sacraments, converts not instructed in her doctrines, nor sincerely reconciled to her faith. The Jesuits were less scrupulous about the sacraments, and more inclined to vigorous means of conversion. If abjurations, said they, are obtained from the present generation, though extorted by fear or interest; and if the converts thus reconciled to the Church are compelled to attend her worship, and partake in her sacraments, *they* may still remain heretics in their hearts, but their children, at least will be Catholic.† Neither of these systems was entirely adopted, or steadily pursued; and, as they alternately prevailed, the policy of the Government fluctuated between mildness and severity, between laxity and strictness. Measures of extreme rigour were enforced for a time, and then openly recalled or secretly abandoned. Converts were at one season admitted to the most sacred mysteries of the Church, with a facility bordering on profanation; and at other times subjected to scrupulous and arbitrary examinations, that appeared intolerable to persons who had made their abjurations under the opposite system. Had the plan of the Jansenists been pursued, the apparent progress of conversion would have been less rapid; but in time the great body of the Calvinists in France would have been converted to the religion of the State, as hap-

* Rulhière, v. 140-145, 157-167, 172. † *Ib.* v. 218, 310.

pened to our Catholic population in England under Elizabeth. And, abominable as was the system of the Jesuits, if it had been steadily acted on, the Protestants would have been driven either to change their faith, or, retaining it in private, like the Jews in Spain, to have conformed, in outward appearance, to all the rites and ceremonies of a religion they in secret detested. The combination of the two systems led to interminable persecutions, equally disgusting and inefficacious.

The effects of these secret machinations against their religion were soon experienced by the Calvinists. Edicts and declarations followed in rapid succession, which took from them every thing but the public exercise of their religion, and the common rights of humanity. They had long been excluded from high offices at Court, or in the army, except in cases of uncommon merit or splendid services; but in the inferior departments of government, they had been employed without reserve or limitation; and Colbert, in consideration of their superior probity and education, had selected them, in preference to Catholics, for the collection and management of the revenue. A general order, however, was now issued, dismissing them from all the public offices and employments they held. They were declared ineligible to judiciary or municipal charges, and prohibited from exercising the liberal professions, or teaching in their seminaries the learned languages. Their temples were frequently shut up on pretences the most frivolous and unjust; and their pastors, who had still permission to preach, were debarred from their favourite topics of controversy with the Sec of Rome. They were still allowed to exercise agriculture, commerce, and the mechanical arts, and to serve, though without hope of promotion, in the army and navy. They were still indulged with liberty to marry, and to bury their dead according to their own rites; and they had still the disposal of their property, and the education of their children, who remained Protestants. But a law, equally absurd and iniquitous, gave to the child of a Hugonot, at the age of seven years, the right to change its religion, and renounce the authority of its parents, who were nevertheless bound to maintain and provide for it on a footing with their other children.

The degradation to which the Hugonots were now reduced, humiliating as it was, did not satisfy their adversaries. There is no mercy in a bigot, who believes he is serving the object he devotes to sacrifice. The clergy considered it a point of honour to eradicate the name of heresy from France; and the King, in his anxiety for his own salvation, was led from one act of violence to another, till the salutary work was completed. Louvois

had been at first averse to the project of disturbing the Calvinists in their religion, lest it should divert his master from the schemes of grandeur and ambition where his own services were wanted. But, when he found the King irrevocably bent on the extirpation of heresy, his next object was to make himself necessary in the execution of the plan, and to bring it to a conclusion as speedily as possible. The war department was his particular province; between which, and the conversion of heretics, it seemed difficult to establish a connexion. But obstacles that would have deterred a less ambitious minister, had no effect upon Louvois. On pretence of encouraging conversions, he procured an order, that new converts should be exempt from the billeting of soldiers; and, as a measure of constraint, not repugnant to the system then pursued, he obtained permission, in his secret instructions to the Intendants, to direct, that a greater proportion of soldiers should be quartered on Calvinists than on members of the Established Church. So trifling a boon on the one hand, and so slight a burthen on the other, would determine, it was said, many Hugonots to abjure a religion to which they were attached only by habit. The King appears at first to have given his consent to this measure, without anticipating the consequences that ensued; for, when complaints were made to him of the excesses committed by the soldiers on their hosts, he withdrew the order and recalled the troops. It was not till some years afterwards, when the order for conversions had become stronger, that this mode of propagating the faith was revived and extended over France. It happened that a large force was assembled in Bearn, for the purpose of overawing the Spaniards, at a time when the rage for extirpating heresy was at its height. The troops having nothing to do, the Intendant of the province, a brutal and fanatical Catholic, thought they might be usefully employed in making converts; and so speedily and effectually was the business done, that in a few weeks not a Calvinist was left in Bearn. The troops were then marched into Guienne, Languedoc, and other provinces, with the same mission and the same success. The praises bestowed at Court on the Intendant of Bearn, roused the activity, and excited the emulation of other governors. Louvois, rejoicing to see the conversions fall into his hands, sent troops whenever they were wanted, and before they were even demanded. Whole districts were converted as it were by magic. Wherever the dragoons appeared, the Calvinists hurried to church to perform their abjurations. No instructions were given to them; no proofs of the sincerity of their conversion were required; the principles of the Jesuits

prevailed in the church; and, among the Protestants, casuists had arisen, who taught that abjurations extorted by force were not binding on the conscience. The hard situation to which the Calvinists were reduced, affords some excuse for their weakness and duplicity. There was no escape from their persecutors. Those who had the means of leaving their country, were detained in it by force. Emigration was prohibited by law, and had been made impracticable in fact. No remedy but a pretended conversion, could protect their persons from violence, or secure their families from insult and brutality.

Louis, deceived by the false and flattering accounts transmitted to him, and assured by his ministers and courtiers that, in a few weeks, not a Hugonot would remain in France, ventured at length, in opposition to his original design, to adopt the hasty and inconsiderate resolution of formally revoking the edict of Nantz, and of interdicting the public exercise of the reformed religion within his dominions. He was pleased, however, at the same time to declare, from his tender regard to the rights of conscience, that Hugonots, who had not abjured their faith, might retain their religion undisturbed, and exercise it in private without molestation.

The fatal effects of these violent and inconsistent measures were soon experienced. The Hugonots were divided into two classes; those who had abjured, and those who had resisted abjuration. The former were subject to the Church; the latter exempt from her jurisdiction. To separate the two classes was found to be difficult. Many who had abjured from terror of the dragoons, were inclined to retract and deny their weakness, when the danger was over. The Church, uncertain of the extent of her conquests during the hurry and confusion of victory, but unwilling to release any of her victims, was disposed to multiply their number beyond the truth. The new converts were, besides, only Catholics in name, internally detesting the religion they had been compelled to adopt. It was necessary to eradicate the remains of heretical depravity from their hearts, before the salutary work was completed; and by what means this change could be most effectually wrought, became a subject of dispute between the two religious parties that still divided the Church and Court of France. The Jansenists recommended instruction and good example. But the lower clergy, to whose care the new converts must necessarily be committed, were at that time little qualified in France, by their morals or acquirements, to solve their doubts, remove their objections, or attach them to the professors of their new religion. The Jesuits, more anxious about the external unity of the Church than

the internal faith of its members, urged perseverance in the system that had been already productive of such effects. The King, alternately swayed by his ministers and confessors, fluctuated between the two opinions, and adhered steadily to neither. Under the influence of the Jesuits, the new converts were compelled to attend assiduously the offices of the Church, and to perform all the external duties she requires. If a converted Calvinist died without confession, or submitting to the ceremonies enjoined by his new religion, his memory was declared infamous, his property confiscated, and his remains, drawn on a hurdle, were thrown into the common sewer, and denied the rites of Christian sepulture. When the Jansenists prevailed, these horrors were suppressed; the new Converts were left to their own discretion; and, if they presented themselves to receive the sacraments, they were not admitted to the holy mysteries without a previous examination, which convinced the pastor that they were qualified to partake of them without profanation.

Towards the close of his reign, Louis XIV. fell again under the dominion of the Jesuits; and, at the instigation of Pere Le Tellier, he revived the law against heretics dying in a state of relapse, which Cardinal de Noailles, when in favour, had prevailed on him to revoke. In renewing this law, a phrase was introduced into the preamble, probably without the knowledge of the King, who was then in his dotage, but attended with the most fatal consequences to the Calvinists. The revocation of the edict of Nantz, while it prohibited the public exercise of their religion, allowed them to remain undisturbed in France; and many subsequent edicts and declarations had recognised them as still existing in the kingdom.* In the preamble of the new edict, it was alleged that there were none of the ancient Hugonots who had not abjured their faith, and reconciled themselves to the Church; and, consequently, that they and their descendants were to be deemed Catholics, and liable as such to the provisions of the edict.† The assertion was notoriously false; but it was taken by the Parliaments for what they called a *présomption légale*; and for seventy years it was held to be the law of France that there were no Calvinists in the kingdom.

The French Protestants were now approaching to the last and extreme term of their sufferings. During the regency of the Duke of Bourbon, an unskilful attempt was made to consolidate the various provisions respecting them. No longer ac-

* Rulhière, v. 183, 294, 361, 371.

† Ib. v. 323, 458.

known under the name of Calvinists, but distinguished by the appellation of New Converts, they were treated as Catholics by the State, and as Hugonots by the Church. They were subjected to heavy penalties if they refused the sacraments, and to rigorous examinations when they applied for them. The system of the Jesuits was followed, in enforcing the offices of religion; the scruples of the Jansenists indulged, in requiring trials, at the discretion of the pastor, before they could be administered. Certificates of Catholicism were at once made indispensable and unattainable. As the law held there were none but Catholics in France; so it declared, that no marriages could be legally contracted, except in the manner prescribed for Catholics, and according to the rites of the Catholic Church. But marriage is a sacrament in the Romish religion; and though, in their eagerness to inveigle heretics within the pale of the Church, the clergy had not hesitated to administer their sacraments to converted Calvinists, who had nothing of Catholicism but the name, now that they had them fast within the fold, they scrupled to continue the same profanation, refused them the nuptial benediction, unless their examinations were satisfactory, and withheld from the dying the sacraments which they had formerly compelled them to receive.

The situation of the ancient Calvinists and their families was now deplorable. The Jesuits had demanded rigorous measures against them from the Government, but permitted and encouraged a system of laxity in the Church. The Jansenists had regarded the laxity of the Church as a scandalous profanation, but recommended mildness on the part of the Government. The new system, combining strictness in the Church with rigour in the State, drove them to despair. The Parliaments, insisting they were Catholics, because they were so termed in a royal edict, required the clergy to marry them without making difficulties. The clergy refused, saying they knew them to be Hugonots, who hardly condescended to disguise their religion, when they applied to the Church for the use of her sacraments in their civil concerns. The Parliaments, tenacious of their *présomption légale*, and not unwilling to encroach on ecclesiastical jurisdiction, persisted in their requisitions, and never once suggested the obvious expedient of abrogating or amending an absurd and impracticable law. The clergy, confiding in the limited and fluctuating policy of the Court, were equally obstinate in their refusal. The Calvinists, wearied with their dissensions, and ashamed of living in a state of concubin-

age, had recourse to pastors of their own, by whom they were married, *au desent*, according to the rites of the reformed Church. These marriages for some time were connived at, but the bigotry of the inferior tribunals brought them at length into question; and as they were clearly illegal by the edict of 1724, the courts were compelled to annul them, and bastardize their issue. The husbands were sent to the galleys for life, the wives shut up in penitentiaries as abandoned women; and, with a mockery of beneficence not unexampled in the history of persecution, the inheritance of the children was distributed to hospitals. Even where the marriage of the parents was not annulled by a judicial sentence, the children were frequently stigmatized as bastards. If a Calvinist sent his child to be baptized in a Catholic church, in order to preserve a record of its birth, the priest, if he had not solemnized the marriage of the parents, entered the child as illegitimate in his register. When a Calvinist died, he was privately interred by his family, who were liable to punishment for not having summoned a priest to disturb his last moments with fruitless controversy; and if the place of his sepulture was discovered, his remains were liable to be disinterred, and made the sport of a fanaticable rabble. The result of this system, at the close of the American war, when the situation of the Protestants attracted the serious consideration of the Government, was the confession of the fact, that a million of Calvinists were concealed in France,—without civil privileges or acknowledged existence,—without means of establishing by legal evidence their births, marriages or deaths,—husbands without lawful wives, fathers without legitimate children; unable to quit their country or to remain in it without profaning its religion or disobeying its laws; compelled, at the hour of death, either to violate their conscience, or to leave their property liable to confiscation, and their bodies exposed to insult.

We have said nothing of the penalties against the Protestants for preaching, or attending meetings for religious worship. A minister, convicted of preaching, marrying, or administering the sacraments, was punished with *death*, and all his hearers and communicants, without exception, sent to the galleys, or imprisoned for life. Latterly, it is true, these unmerciful laws were but rarely executed,—thanks to the spirit of tolerance and philosophy, now so much decried; but it was no fault of the clergy if they were not enforced with the utmost rigour; for, at every convocation they held, they never ceased their earnest protestations against the mischievous lenity shown to heretics. So late, however, as 1762, La Rochette, a Protestant clergyman, was condemned and executed by sentence of the Parlia-

ment of Toulouse, for preaching and performing his pastoral duties *au desant*; and in 1767, a clergyman was condemned for the same offences by the Parliament of Grenoble, and executed in effigy. From 1710 to 1762, instances were frequent of the infliction of capital punishment for such crimes.

It was not till within eighteen months of the Revolution that this monstrous system was in part corrected. By an edict of Louis XVI. in 1787, registered by the Parliament of Paris in January 1788, the Calvinists and other separatists from the Church of Rome obtained a legal existence in France, under the name of *Non Catholiques*, and had permission to marry without the aid of a Catholic priest, to record in public registers the birth of their children, and to inter their dead in places of sepulture protected by the laws. By the same edict they were allowed to exercise a number of trades and professions, from which the necessity of having certificates of Catholicism had formerly excluded them. But they were still denied the public exercise of their worship, and shut out from all judicial offices, and all charges connected with the education of youth. For this liberation, imperfect as it was, they were chiefly indebted to the Baron de Breteuil, and to M. des Malesherbes. M. de la Fayette also contributed to this act of grace, by an address in favour of the Protestants, which he carried in the Assembly of the *Notables*; and several of the higher clergy, in the discussion of the measure, showed a spirit of toleration that did them credit. In this Parliament of Paris, there were none who refused to vote in favour of the edict, except one Archbishop, two Bishops, and five Counsellors, two of whom were Abbés.

It has been a subject of bitter reproach against the Protestants, that, unmindful of this favour from Louis XVI., they became decided partisans of the Revolution; and to aggravate their ingratitude, it has been asserted, that the edict of 1787 restored them to all the privileges, of which they had been deprived by the revocation of the edict of Nantz. But this last assertion, like many others advanced to palliate or excuse the persecution of 1815, is totally without foundation. The edict of 1787 expressly declares, 'que nos sujets non Catholiques ne tiendront de la loi que ce que le droit naturel ne nous permet pas de leur refuser, de faire constater leurs naissances, leurs mariages et leurs morts, à fin de jouir comme tous nos autres sujets, des effets civils qui en résultent.'

The Revolution conferred on the Protestants all the civil and political rights enjoyed by other Frenchmen, and permitted the free and public exercise of their religion. The concordat of 1802 gave them a public establishment for their Church, which

was confirmed to them by the Charter of Louis XVIII., and is still maintained throughout France.

Under the revolutionary governments, Protestants suffered individually like other citizens; and during the imperial sway of Napoleon, they were reduced to the same implicit subjection to his will as all other descriptions of persons in France. But, till the restoration of the Bourbons, they had no persecution to endure on account of their religion; no injuries to suffer because they were Protestants; no apprehensions to entertain that they were selected as victims, because they were heretics; no grounds to fear, that a design was formed to refuse them the protection of the laws, and compel them, as in the days of Louis XIV., to abjure their faith and become converts to Catholicism, in order to preserve their lives and fortunes, and secure their wives and daughters from insult and outrage.

The excesses to which we allude were confined, it is true, to the department of the Gard, and to certain districts in its vicinity; and this limitation exculpates the French Government from any fixed or general plan to oppress its Protestant subjects, or deprive them of their rights sanctioned by the Charter. But the question still remains, From what causes did these excesses proceed? Why did they take place in particular districts and not in others? And, above all, why have they remained to this day unpunished?

In answer to the first of these questions, it has been said, that the Protestants in the south of France were obnoxious to their royalist neighbours, as the first promoters, and steadiest supporters of the Revolution; and that, when the Royal Government was restored, they suffered, not as Protestants, but as Revolutionists.

The falsehood of the general assertion, that the Protestants in France were the authors of the Revolution, is too notorious, and the charge itself too ridiculous, to deserve a serious refutation. The Protestants had neither numbers nor property, influence nor talents, to give an impulse to the rest of France. They followed the general movement; but could neither excite nor direct it. In the department of the Gard, in particular, Mr Wilks has shown, that, at the commencement of the Revolution, they were much less forward than the Catholics. The most conspicuous names on the popular side in that part of the country, were Vidal, Calvières, Froment, and other Catholics, who have since acquired disgraceful celebrity, by their participation in the horrors that followed the second Revolution. Mr Wilks has also shown, that though it was natural for the Protestants to support a Revolution, which had conferred on them so many

civil and political advantages, they pursued no uniform conduct, nor acted in a body, during its course. Lauze de Peret,* from whom he has borrowed both these observations, has published an authentic list of the sufferers under the revolutionary tribunal of the Gard; from which it appears, that of 138 victims, 46 were Protestants, 91 Catholics, and one a Jew:—the Protestants, who make about one-third of the population of the department, forming exactly one-third of the sufferers.

It would be out of place, in a discussion of the merits and sufferings of the Protestants, to enlarge on the causes of the French Revolution. The general facts, and the circumstances that led to them, are sufficiently known. Private memoirs may throw light on particular events; but the general causes that produced the Revolution, and gave to it the disastrous turn it afterwards assumed, are matter of history, on which little further information is to be obtained. The growth of new interests, and the progress of liberal opinions in France, called for some Reformation of the State; but it was a succession of faults in the Government that produced the Revolution. The indecision and versatility of the King, his imprudent choice of ministers, and still greater imprudence in withholding his confidence from the persons ostensibly intrusted with his affairs; his disgraceful squabbles with his Parliaments, and the mixture of violence and weakness in his conduct to these assemblies; the pertinacity of the privileged orders in maintaining their particular rights and immunities; the petty jealousies and enmities of the palace; the fraudulent and ill-concerted measures that preceded the 11th of July 1789, aided, in a slight degree, by the ambitious machinations of a party, contemptible in its chief, and execrable in its objects,—were the immediate precursors of the Revolution. The flight of the Princes; the selfish and Machiavelian intrigues of the clergy; the rash and haughty imbecility of the nobles; the variable and faithless policy of the Court,—led to the distrust and confusion that followed. A coalition of men of honour and principle might yet have saved the State; but anarchists and courtiers combined together, with different views and expectations, to hasten its destruction.

It has next been said, that, from 1790 to 1814, the Protestants of the Gard had engrossed all public offices and authority in the Department; and that the reaction to which they have been since exposed, was the natural consequence of the efforts of the Catholics to resume the influence and regain the authority they had lost. Mr Wilks and M. Lauze de Peret have

* *Eclaircissements Historiques*, 3me Livraison, 103-105.

shown, that this explanation is equally unfounded with the former. † They have carefully consulted the lists of deputies, *prefets*, departmental councils, judges civil and criminal, mayors, municipal officers, collectors of revenue, and other public servants of the department, and published the result; from which it is clear, that the Protestants of the Gard, taking into account their numbers and comparative wealth, have had less than their due share of such appointments. Of 546 public functionaries, who held judiciary or administrative offices in the department from 1793 to 1814, there were 381 Catholics, and only 165 Protestants; and of 43 deputies, including those of the Constituent and Legislative Assemblies, 31 were Catholic, and only 12 Protestant. It is worthy of remark, that during the greatest excesses of the Revolution, the influence of the Protestants in the department appears to have been the least. In the Convention there were six Catholic, and only two Protestant deputies. The revolutionary tribunal was composed of five Catholics and only one Protestant. The *Prefets* of the department under Napoleon, were uniformly Catholics; and so were the *Procureurs-Generals*, and the Presidents of the *Cour d'Appel*.

It has next been alleged, that when the Bourbons were restored, the Protestants of the Gard could not conceal their dissatisfaction, nor disguise their attachment to Napoleon, and their regret at his fall. But this excuse for their persecution has no better foundation than the others. The Protestants throughout France had been protected in their religious rights by Napoleon; but, like the rest of the country, they were sick of his ambition, and exhausted by his continual wars and contributions. They rejoiced at the return of peace, and flattered themselves it would revive their commerce, and relieve them from conscriptions. Their public congratulations to the King were as fervent as those of the Catholics, and apparently as sincere. Arbaud Jouques, the Prefet who suffered them to be murdered and pillaged with impunity, insinuates, that *the joy they expressed on the first restoration was insincere*. His testimony thus confirms a fact which their enemies had denied. His insinuation is one of the many calumnies that worthy magistrate has invented or circulated, to excuse his weakness, or rather his criminal connivance with their persecutors.

During the first restoration, the Protestants of the Gard suffered no positive acts of violence; but, wherever they appeared, they were menaced and grossly insulted by their enemies, and

† Wilks, 77-89. Lauze de Peret, 3me Livr. 107, 108.

exposed to manifest danger of their lives. In resentment of this usage, it is pretended that, when Napoleon returned from the Isle of Elba, they declared warmly and unanimously in his favour, and contributed with all their might to seat him again on the throne of France. It happens, unfortunately for this statement, that Nismes was the last city of Languedoc which hoisted the three-coloured flag; and that the Revolution, when accomplished there, was the work of the military alone. The Protestants, it is true, formed no part of the army that attended the Duke of Angoulême in his unsuccessful campaign against the invader. But their backwardness on that occasion was no proof of their disaffection to the Bourbons. The Catholics of the army refused to serve with them. Such was the temper already infused into a department, where, before the return of the priests and emigrants, the spirit of religious animosity seemed extinct, and the two religions united in mutual benevolence and peace. But though the Protestants were rejected as heretics from the ranks, their enemies were far from confounding in the same anathema their purses and their persons. The chief and almost the sole contributors to the expenses of the expedition, were the Protestants of the Gard.

It has, last of all, been confidently asserted, and publicly repeated by Lord Castlereagh in the House of Commons, * that after the dispersion of the Royalist army, the Protestants of the Gard rose on the volunteers as they were returning home, massacred two or three hundred of them, deprived others of their arms and accoutrements, and in various ways abused and maltreated them. The *utter falsehood* of this charge, fabricated to excuse the subsequent massacre and pillage of the Protestants, and propagated for a time with the greatest assiduity by the Ultra-Royalist writers, is shown at length by Mr Wilks and M. Lauze de Peret. † The facts alleged have been disproved by the clearest evidence,—by the results of public trials since the second restoration, conducted by the most inveterate enemies of the Protestants. The pretended massacres had no existence. The disbanded volunteers were, in general, received with courtesy, and conducted with kindness through the Protestant districts of the department. The few exceptions that occurred, arose from the irregular conduct of the volunteers themselves, who retained, with fraudulent intentions, their arms and ammunition, in violation of the terms accorded to them by the

* May 22d, 1816.

† Wilks, 136. 154—160. 371. 389—Lauze de Peret, 3mo Liv. 69—140,

capitulation of La Palud; and, to conceal this breach of faith from the constituted authorities, attempted to return to their homes without passports, by by-roads and unfrequented passes. Some conflicts of little moment ensued, arising from the surprise and not unnatural apprehensions of the peasantry, at the sight of armed men wandering, without officers or discipline, through their fields. In one instance only was there effusion of blood, and that was occasioned by a panic wantonly or maliciously excited in a village by a Catholic and a Royalist, who, when accused of this fact, had nothing but his character of Catholic and Royalist to produce in his vindication. When the story of these pretended massacres and disorders was first advanced by M. de Beauchamp, it received an immediate, direct, and public contradiction from M. D'Aunant, a Royalist, though a Protestant; and when afterwards alluded to in the Chamber of Deputies, as an extenuation of the horrors subsequently committed by the Royalists, * M. St Aulaire, a Catholic, father-in-law of M. Decazes, and one of the deputies of the Gard, declared from the tribune,—‘Puisque l'on persiste dans d'injustes recriminations, je dirai, que non seulement les crimes commis après la seconde restauration ont été atroces, mais encore qu'ils ont été gratuits; j'en appelle à mes collègues de députations, à tous ceux qui connoissent le département du Gard, je déclare en leur nom comme au mien, que pas une goutte de sang n'a coulé à Nîmes pendant les cent jours. A Arpaillargues deux volontaires royaux ont été frappés les armes à la main, mais c'étoit en combat contre d'autres hommes armés.’ No one replied, or dared to deny the truths asserted by M. St Aulaire. Even M. de la Bourdonnaye was silent.

The story of 10,000 *Federés*, composed of disbanded soldiers and of Protestant peasants from the Cevennes, and employed during the hundred days in committing excesses on the Royalists, is equally destitute of foundation, though it had equally the fortune to be brought forward by Lord Castlereagh in the House of Commons. A federation, it is true, was entered into at Nîmes ‘for the maintenance of order, the protection of persons and property, and the support of the laws and public authorities,’ and commissioners were appointed to carry this judicious measure into effect. The principal inhabitants of the place, Catholic as well as Protestant, were subscribers to this association; and its president was a Catholic and a magistrate. But, instead of exercising severities on the Royalists, the members of the association were never assembled at all,

* April 25th, 1820.

the federation having been dissolved by common consent as unnecessary, before it was ever called into action.

Whatever may have been the measures of precaution or severity used against the Royalists of the Gard during the hundred days, and they were not more rigorous than in other parts of France, they are not to be imputed to the Protestants, but to the constituted authorities under Napoleon. The *prefet* of the department was a Catholic. The *sous-prefet* of Nîmes, a Protestant, resigned his office. The commander of the troops was a Catholic. All the members of the *Cour Imperial* were Catholics, except one, who refused to act, or take the oath of fidelity to the Emperor. The directors of the *droits réunis*, of the national domains, of the post-office, were Catholics. There was no Protestant in any high situation, except M. D'Aunaut, mayor of Nîmes, whose fidelity to Napoleon was so much doubted, that he was denounced as a Royalist, and whose sons were notoriously and openly attached to the Bourbons. So little was there of truth in the information given to Lord Castlereagh, that the Protestants remained in possession of all offices and authority in the department after the first restoration, and that the return they made for this indulgence was, universally to desert the Bourbons for Napoleon, and oppress and persecute every one who came forward in support of Royalty.

To explain the persecution of 1815, we must go back to the early history of the Revolution. After the fall of the Bastille, and the events that followed, the authority of Louis XVI. was at an end, and the whole power of the State centered in the National Assembly. For some time, there was no counter-revolutionary party within the kingdom; but divisions soon arose, which threatened the subversion of the new establishment. The Parliaments could not view their impending ruin with indifference. The nobles were dissatisfied with the extinction of their territorial rights, and the loss of their personal privileges and exemptions. The Clergy were still more offended by the suppression of convents, the abolition of tithes, and the declaration concerning ecclesiastical property. The *Tiers Etat*, constituting the great body of the nation, were the only portion of the people who had received nothing but benefits from the Assembly, and who were therefore universally inclined to maintain its authority. To break this attachment, to introduce divisions into the *Tiers Etat*, and gain over a part at least to their projects, was the obvious policy of the counter-revolutionists; and, to attain that end, no method appeared to them more plausible or more likely to succeed, than to rouse the religious fanaticism of the multitude, by representing the Church in danger, and the

Catholic faith in jeopardy. With this view, addresses were circulated through every part of France from the higher clergy, inflaming the zeal of the ignorant, exciting the apprehensions of the timid, exaggerating the acts, and misrepresenting the intentions of the Assembly. It would be difficult to reconcile, with prudence or duty, the conduct of the Church of France on this occasion. By separating their interests from the Revolution, the Clergy drew upon themselves the severities of which they had afterwards to complain; while they betrayed the religion they professed to defend, by risking its stability and existence on the frail and uncertain chances of a counter-revolution.

Nowhere was this criminal enterprise of reviving fanaticism and intolerance pursued with greater assiduity, or attended with more success, than in the department of the Gard. As early as October 1789, a conspiracy was formed at Nismes between some of the more violent of the Clergy, and certain individuals who had deserted the cause of the Revolution, because they had not derived from it the personal advantages they expected; the object of which was to arm the populace against the Assembly, by reviving their ancient hatred of the Calvinists. The most inflammatory publications, addressed to the vilest and most odious passions of the multitude, were put forth by this junto. The Catholics were called upon to unite against the Protestants, as the ancient and implacable enemies of their faith. Meetings were held, declarations issued, and petitions voted to the Assembly, praying that heretics might be excluded from all offices, civil and military, and prohibited from the public exercise of their religion. One Froment, a native of Nismes, and active agitator at that period, who survived to the second Restoration, has published an account of the intrigues which he then conducted, and for which he complains he has been inadequately rewarded by his party. From this man's disclosures, it appears that he was in communication with the present Monsieur, and the late Prince of Condé, from a very early period of the Revolution, and that he was honoured with their confidence and esteem; that he went on a secret mission to Turin in January 1790, with letters of recommendation from the discontented nobles of Languedoc; that he then disclosed to the Princes his plans for exciting a religious war in the south of France, which met with their concurrence and approbation; and that he returned to Nismes with money and credentials for the accomplishment of his designs. His plan, he tells us, was to unite 'the partisans of the altar and the throne;' his principle, that, 'as one strong passion was necessary to extinguish another, so

‘ religious zeal alone could control republican enthusiasm ;’ and his system of operations was, to revive the ancient hatred of the Protestants, and employ that fanatical spirit in bringing about a counter-revolution. Fortified by the credentials he brought from Limon, and seconded by the friars and some of the clergy, his machinations were but too successful. An insurrection broke out at Nismes, which was not suppressed without bloodshed. *

In this affair, which has been called the *Bagarre de Nismes*, the Protestants of the department took part with the National Assembly; but it is not true that the Catholic population was universally, or even generally, engaged on the other side. M. Lacretelle, with his usual disposition to say what is agreeable to the ruling powers, has chosen to insinuate, in his late History of the Constituent Assembly, that this was a mere local contest between Catholics and Protestants. But a very different account of the matter was given at the time, by the Commissioners appointed to investigate the transaction. Though unacquainted with the revelations since made by Froment, which explain the whole course and management of the affair, they impute the disturbance, not to fanaticism alone, but to the efforts of a party, whose object was a counter-revolution. The fury that inspired the populace was religious; but the motives of their chiefs were political.

Several of the ringleaders of this insurrection perished in the action; but Froment, Vidal and others, made their escape; and, till the first restoration, Froment, in concert with the exiled Princes, was continually engaged in machinations to preserve a royalist and fanatical party in the south of France. He boasts of his success; and represents the excellent spirit of 1815 as the result of his correspondence and publications. How far he is justified in claiming to himself this merit, we have not the means to ascertain. His labours were of course in secret, and are only known to us by his own confessions. He may have sown the seed in darkness under Napoleon; but, till the restoration, it lay dormant. This, however, is certain, that he continued in correspondence with the Princes; that he was employed by them in confidential missions; that he received from the present King the brevet of private secretary in 1795; and, like many other of their friends, had a pension from

* The important disclosures of Froment have been suppressed with so much care and success at Paris, that it is impossible to find his books. We therefore refer our readers to *Wills*, 42-55, and to *Lauze de Peret*, 2d edit. 194-201.

the English Government, which he never ceased to vilify and abuse! On the first restoration, he returned with other emigrants to Nismes, and renewed his connexions with his old associates. The arrival of these strangers was quickly followed by a change in the former habits and intercourse of the place. A line of demarcation was drawn between Protestants and Catholics. The professions of loyalty from the former were rejected as insincere; and to be a Catholic, and furious enemy of the Protestants, was a necessary passport to favour. There was probably a good deal of religious bigotry in the hatred of the emigrants towards their old enemies; and no small resentment, from the recollection of their defeat in 1790. There was also a portion of envy mixed with their other feelings, at seeing the wealth and prosperity acquired by the Protestants, during so many years of peaceful industry and equal protection from the laws; and, to the hope of plunder, they were certainly indebted for many of the humbler and more unprincipled of their adherents. But their chief object, as in 1789, was to gain partisans to their cause among the body of the people. To inspire the multitude with loyalty, they rekindled religious animosities that were nearly extinct. By representing the Protestants as the common enemies of the throne and the altar, they attached to the throne every one who professed himself a friend of the altar.

In consequence of this ultra-royalist spirit, diffused by the priests and emigrants at Nismes, the Protestants, whenever they appeared in public, were received with injuries and execrations by the populace. Frightful groupes, inflamed with wine and encouraged by their betters, assembled in the streets and public squares, in mobs of three or four thousand persons, singing sanguinary songs; the burthen of which, in the *patois* of the country, was as follows.

‘ Lavaren nostri mans
Din lou sang di Proutestaus,
Duon sang deis enfans de Calvin,
Faren de boudin. ’ *

Persons of rank were heard to say in the public walks, ‘ AN
‘ the Hugonots must be killed; and this time their children

* Which may be thus done into English metre, after the manner of Thomas Sternhold, John Hopkins, and others.

Protestants’ blood, to wash our hands,
We cheerfully shall take;
And with the blood of Calvin’s sons
Black puddings we shall make.

' must not be spared, lest any of the cursed race should remain.' Complaints of this treatment were made to the Government, and some attempts were made to afford redress. But, apparently, the system of insult and persecution had apologists and advocates near the throne. When Monsieur visited Nismes in October 1814, his declarations to the Protestants were flattering and satisfactory; but there must have been persons about him who held a different language in private; for, after his departure, the enemies of the Protestants became more furious and audacious than before. Every thing announced approaching violence when Napoleon reappeared. The conduct and forbearance of the Protestants on that occasion have been already related.

Before the second restoration was effected, a Catholic and Royalist army had assembled at Beaucaire, about sixteen miles from Nismes, composed chiefly of the lowest and vilest of the populace, inflamed with religious bigotry, and conducted by hot-headed ambitious chiefs, ready to involve their country in civil war; though the Imperial army at Nismes was sufficient to have dispersed in an instant the undisciplined rabble they had collected, and though information had reached them that the fate of France was on the point of being decided in the plains of Flanders. In this state of affairs, Madier de Montjau, a Catholic and Royalist, and since President of the *Cour d'Assises* at Nismes, was induced, from humanity, to interfere, and negotiate an armistice between the contending parties, which was to last till intelligence of a decisive nature arrived from Paris. Accounts were soon brought of the return of the King, and restoration of the royal authority; on which the troops and generals of Napoleon, who had occupied Nismes as a military station, instantly withdrew according to agreement. When left to themselves, the civil authorities of the place, of their own accord, without resistance or opposition from any one, raised the white flag, and recognised the authority of the Bourbons. But this adherence to the Royal Government, though it took place forty-eight hours before the arrival of the Royal army at Nismes, did not satisfy the party of Beaucaire. They had no pretence of resistance, and yet they treated that unfortunate city as if it had been a place taken by storm. The tocsin was sounded; and a furious rabble, without chiefs or discipline, collected from all the neighbouring villages. A small garrison, left in the barracks to protect the artillery and ammunition, was treacherously butchered, after it had surrendered on capitulation. The Urban guard, composed of the respectable inhabitants of the place, was disarmed, and their arms and accoutrements dis-

tributed among the lowest and most fanatical of the populace. These precautions taken, an indiscriminate pillage and slaughter of the Protestants commenced, without distinction of age or sex, of Royalists or Bonapartists. The houses of those who were murdered, or compelled to fly from the town, were pillaged and burnt, and their estates and property laid waste. Many were forced to ransom their lives; and some were murdered after they had purchased the protection of their assassins. Every aggravation was used that could add to the horror of these scenes. The wounded were, in some cases, left to perish in the flames, while their murderers danced round the fire. The dead were denied the rites of sepulture, and their remains treated with every sort of indignity. Bodies that had been committed to the tomb were dug from their graves, subjected to the most brutal insults, and left exposed to public view. Women, as well as men, were the victims of these atrocities. Some were murdered outright; others died in consequence of the usage they received. The most infamous and indecent outrages were committed on their persons, and every refinement of cruelty inflicted short of death. Arbitrary imprisonments were at the discretion of the mob. At Nismes alone, 1100 persons were arrested without warrant; and, so late as September 1815, three months after the commencement of these horrors, Madier de Montjau found 600 Protestants in the prisons of that city, without legal authority or written order for their commitment. Some hundreds remained for months in that situation; and several were detained near a year in prison, without being able to obtain either their trial or liberation, or even the registry of their imprisonment. Contributions were levied indiscriminately on the poor and the rich. There were not above eight or nine Protestant families at Nismes that escaped paying a ransom for their lives. For more circumstantial details of these enormities, we must refer our readers to Mr Wilks and M. Lauze de Peret, where they will find the names and designations of the victims, and the particulars of every remarkable case. *

From Nismes, the system of massacre and pillage spread over the whole department of the Gard, and extended to the adjacent districts of the Herault and Aveyron, inhabited by Protestants. Nor were these atrocities merely the excesses of the moment. They lasted for six months, with little interruption or abatement. There were afterwards some intervals of

* Wilks, 189, &c.—Lauze de Peret—*Causes et Précis*, &c.—Madier de Montjau—*Pièces et Documents*—*Plaidoyer*, &c.

comparative tranquillity; but, for more than eighteen months, the Protestants were without security, and without protection, from the laws or magistrates. The local authorities were either openly inimical to them, or shamelessly negligent of their duty. In some of the country districts, the mayors, appointed since the restoration, encouraged instead of opposing the assassins; and when they interfered to save the Protestants, it was by exhorting them to compound for their lives. At Usez, six prisoners, arrested without cause, were taken out of jail by a band of ruffians, and shot in open day, on the public esplanade, opposite to the windows of the *sous-prefet*, who witnessed the transaction; and some weeks afterwards, in the same town, six National Guards of Alais, surprised when on duty by the same ruffians, were shot on the same spot; with the approbation of the same magistrate. At Nismes, the chief place of the department; the *Prefet*, and other constituted authorities, instead of employing efficacious measures for the preservation of the public peace, issued illusory proclamations, lamenting disorders too notorious to be concealed, but palliating their excesses, and attributing them to causes absurdly and ridiculously false. Addresses from public bodies were transmitted to Paris, containing the most shameful misrepresentations of the state of the department; and when Voyer d'Argenson attempted, in the Chamber of Deputies, to withdraw the veil that concealed its real situation, his voice was drowned in the clamours and menaces of the Ultra-Royalists. It is not true, as Lord Castlereagh was informed, that the weakness of the public authorities compelled them to tolerate excesses which they could not prevent. They had at all times an armed force at their command, more than sufficient to maintain the peace of the department. It was in the presence of 2500 troops of the line, and of as many National Guards embodied and under arms, that the massacres we have been relating took place. The judicial, administrative, and military authorities of the department, witnessed the excesses committed, but took no measures to prevent them. On the 2d of August 1815, Captain Bourillon was murdered by Truph  my and his gang, on the esplanade of Nismes, in front of the Palace of Justice, in the middle of the day. The magistrates, assembled in the council-hall to vote a loyal address, heard, unconcerned, the report of the fire-arms, and took no steps to arrest the murderers, or to prevent them from the commission of other crimes. About three weeks afterwards, on the eve of the election of deputies for the department, sixteen Protestants were murdered in open day, and their bodies thrown into the common sewer. The *Prefet* had 4000

troops under his command, while these murders were perpetrating before his eyes; but he presumed not to interfere; and the result was, that next day four Ultra-Royalist deputies were elected, without opposition, to represent the department. *

From the general charge of supineness against the local authorities, or rather of criminal connivance with the bands of plunderers and assassins who desolated the department, two honourable exceptions deserve to be made. Cavalier, *Procureur-Général* of the royal court at Nismes, was indefatigable in his exertions to check the crimes which he saw committed, and openly expressed his determination to bring the culprits to trial, as soon as he could hope for justice from the courts of law. So much zeal for the preservation of order appeared ill-timed and misplaced; and therefore Cavalier was removed from office. † General Lagarde made himself equally obnoxious to the ruling party, by his firmness and vigilance in the discharge of his duty. On the 16th of October 1815, he saved the Protestants from a general massacre; and, in the midst of the banditti assembled for their destruction, he arrested Jacques Dupont, leader of the band of ruffians, a monster noted for his cruelties, and commonly known by the name of *Trestaillons*, because it was his custom, after murdering his victims, to cut their bodies into three pieces. In resentment of this act of vigour, General Lagarde was shot at and dangerously wounded, in open day, in the public streets of Nismes, in the midst of an assembled multitude, while he was employed in protecting the Protestants in the public exercise of their worship, which, for many months, had been suspended. The person that wounded him was well known. His name was Boissin, a sergeant of the National Guard: But no one attempted to arrest him. He was allowed to escape without pursuit; and, though a reward was offered for his apprehension, he was suffered to live in retirement, not far from Nismes, without molestation or inquietude. Not only was he left at liberty, but his party had the audacity openly to laud and reward him. Madier de Montjau tells us, that in his presence, while the pretended search was making after the assassin, a public functionary of Nismes, clothed in his official robes, had the indecency to say, that the act of Boissin was the result of an honourable feeling which no man could suppress, and that General Lagarde had himself only to blame

* Madier de Montjau, *Du Gouvernement occulte*, p. 39.—*Lettre à M. Pasquier*, p. 5.—*Petition*, p. 7.—*Wilks*, 251—267.

† Madier de Montjau—*du Gouvernement occulte*, p. 32.

for his misfortune. * Not content with barren praise, the friends of Boissin opened a subscription for his use; in which, without naming him, he was designated as an interesting character in distress; and when, at length, he voluntarily surrendered himself for trial, they provided a jury for his acquittal. Bernard, successor of Cavalier, who conducted the prosecution, in a private letter written immediately after the transaction, gives the following account of his impressions from the trial. 'L'assassin, avouant son crime, a été pleinement acquitté: vous ne pouvez vous faire une idée des intrigues qu'a employés le parti soi-disant royaliste pour sauver ce grand coupable. Cette ville n'est point faite pour posséder des tribunaux. La justice n'y est point libre.' †

This last remark of M. Bernard was not without foundation; but Nîmes was not the only city in the south of France unfit for the administration of justice. A bold attempt had been made by M. Trinquelague to include the assassins of the Gard in the amnesty of 1816; but it was defeated by the opposition of M. De Serre, and the refusal of the Minister of Police to extend an act of clemency to murderers and brigands. Foiled in this endeavour, nothing remained for the party, resolved, whatever it might cost, to screen their agents from justice, but to corrupt or overawe the tribunals; and never was a criminal enterprise conducted with greater perseverance, or attended with more success. Never was justice more scandalously perverted; never were judgments more iniquitously given, than for several years in the south of France, by the influence and machinations of this faction. The innocent had nothing to hope, if Protestants; the guilty nothing to fear, if Catholics. The judges named in 1815, were, in general, vindictive Royalists, guided by their passions and resentments, or timid, inefficient men, borne away by the violence of their colleagues. The juries were scandalously packed, or frightened into compliance. A furious mob had admittance into the Courts of Justice, who applauded, with horrid shouts of joy, every deposition against Protestants, and threatened and intimidated every witness that appeared in their favour. The most flagrant perjuries were credited to them; and noted assassins were produced in Court, to whom, by their evidence, the victims that had escaped their hands. The legal defenders of the Protestants were made insulted in presence of the judges, while the advocates against them were indulged in the most false and injurious

* *Madier de Montjau—Plaidoyer et Réplique*, p. 36.

† *Ibid.* pp. 11, 12.

aspersions to their prejudice. In the trial of Boissin, his legal defender, himself a major in the National Guard at Nismes, had the audacity, in open court, in the midst of a crowded and applauding audience, to designate the Protestants in a body *comme les ennemis de la légitimité*. It is true, he was reprimanded, and compelled to retract his expression; because, by a rare occurrence, there happened to be on that occasion one man of firmness and honour on the Bench.*

When the assassins, committed for trial by Cavalier and General La Garde, were brought to answer for their crimes, no witnesses durst appear against them. Trestaillons and his associates were dismissed without trial at Riom, for want of evidence. 'Il a été impossible,' said the Garde-des-sceaux (De Serre) in his speech of the 23d of March 1819, 'd'obtenir la deposition d'un seul témoin contre eux. La terreur les avoit glacés.' A single instance will describe the means resorted to for the intimidation of witnesses, and show at the same time the character of the tribunals, which then administered justice in France. Griffon, one of the most formidable of the ruffians who figured in 1815, was tried for murder in 1818 at the assizes of Vacluse. A witness appeared against him. At the moment he advanced to give his testimony, a sergeant of the National Guard approached, and whispered in his ear—'You see this sabre; it has an edge; it is destined for the first rascal that gives evidence against Griffon!' The witness, raising his voice, complained to the Court of this menace. But no notice was taken of it; and the sergeant was not even reprimanded. It is needless to add, that Griffon was acquitted.† At a later period, in November 1819, when the faction that protects the assassins was less powerful than it has been at any time since the restoration, one Servant of Nismes was tried at Riom for murder. A witness, confiding in what was then the language of the Government, gave evidence, without dread or hesitation, against the criminal; on which the ruffian, astonished at his boldness, turned round to him in court, and exclaimed, 'You dared not have said so at Nismes!'

But it was not to the intimidation of witnesses only, that the Ultra-royalist party confided for the preservation of its agents, when brought to trial for their crimes. Whenever an assassin, or plunderer of the Protestants, was in danger, the whole party was in motion to save him; their several committees were in instant

* Madier de Montjau—Plaidoyer, 40-42.

† Madier de Montjau—Pièces et documens, 47.

activity; money was raised for his use; counsel hired in his defence; and certificates of character prepared, in case there should be a lack of evidence against him. The ruffians themselves frequently boasted, that their protectors were too high for the arm of justice to reach them.

It is probable that, when M. de Serre made his speech in 1819, it was the intention of the French Ministry to bring the assassins of 1815 to justice; but, finding them too powerfully protected, they altered their tone in the following year. On the petition of Madier de Montjau, M. Pasquier, Minister of Foreign Affairs, expressed his regret* that the veil had been withdrawn; 'qui, pour le bien de tous, devoit couvrir éternellement ces temps malheureux.' How different had been the language of M. de Serre! † 'Il ne nous est plus permis de nous taire, quelque affligeant que soit ce scandale. Disons-le, cependant—le scandale est dans le crime, il ne peut jamais être dans le cri du sang injustement répandu.' In the interval between the two speeches, the party that protected the assassins had regained all its power and audacity.

In spring 1817, Arbaud Joucques was removed from the prefecture of the Gard, which he had administered with little credit to himself or benefit to the department. His successor, M. d'Argout, checked the violence of persecution, and protected the Protestants from further aggressions; but he was ill supported by his subordinate agents, and more particularly by the National Guard, which was still on the footing of 1815, and completely at the command of the Ultra-royalist faction. 'It was badly organized at first,' said M. Lainé, Minister of the Interior; 'it has opposed none of the excesses committed in the department; and I am persuaded that there will be neither permanent tranquillity nor freedom of election in the Gard till after its dissolution.' It was accordingly dissolved by Royal ordonnance of the 26th of July 1818, and the persons composing it ordered to deliver up their arms. Resistance was meditated, and in one place attempted; but the mutineers were too weak to oppose the Government. About twenty of the ringleaders were arrested, and the rest submitted to their fate. But, though legally dissolved, and compelled to deliver up the arms they had received from the Government, the National Guards kept possession of those which they had taken from the Protestants in 1815; and they still maintained in secret their former organization and subserviency to the commands of their party. So lately as January 1820, a clandestine meeting of

* 25th April, 1820.

† 23d March, 1819.

their leaders was held at Nismes, to direct a private inspection of the corps, and fill up vacancies in the list of officers. ‡

To this corps, disbanded by Royal ordonnance, because there was no hope of tranquillity in the department till after its dissolution, Monsieur was advised to address a letter of thanks for its conduct. 'The National Guard,' his Royal Highness was advised to say, 'has shown itself worthy of its character to the last. He expected nothing less of that excellent corps. The recollection of the last cry it uttered will ever remain impressed on his heart, with the remembrance of its admirable and glorious conduct in 1815.' In 1815 this National Guard had been the passive, and not unwilling spectator, (*le complaisant et immobile témoin*) of the massacre and pillage of the Protestants. Its last act, though not its last cry, was an attempt to resist the Royal ordonnance for its dissolution. It had been long surmised, that the chiefs of the Ultra-royalist faction exercised a dangerous influence over Monsieur. This injudicious act, to which they had no doubt prompted his Royal Highness, confirmed but too strongly these suspicions, and placed the presumptive heir of the Crown in indecent opposition to his brother's Government.

Very different was the opinion entertained of this National Guard by the President of the *Cour d'Assises* at Nismes, as appears from his official report to the Garde-des-sceaux, after the conclusion of the assizes in spring 1819.

'Tout est devenu facile à Nismes depuis la suppression de la Garde Nationale. Le temps n'est plus où une populace insolente et furieuse couvrait d'applaudissemens, où de huées les témoins, les accusées et les juges; où les dépositions qui flattaient les passions de cette populace, étaient accueillies au cri de Vive le Roi, sans que cette profanation reçut le moindre châtement.

'C'est beaucoup pour le département du Gard d'avoir obtenu la suppression de la Garde Nationale et la destitution d'une douzaine des maires—mais—les adjoints, les maires, les juges de paix de la fatale année (1815) sont partout en majorité, et plus irrités qu'abattus des exemples de sévérité trop peu nombreux auxquels s'est enfin déterminé le ministère.

'C'est surtout dans les départemens qu'on doit juger le gouvernement par les principes et les actions de ceux à qui il délègue son autorité; or les hommes de 1815 occupent en tous lieux les emplois qu'ils conquirent à celle époque par la délation et par la terreur; ces hommes représentent le régime de 1815, et, à la moindre leur favorable pour eux, leur audace annonce le retour de mêmes excès.'

‡ Madier de Montjau.—Petition, 6.—Pièces et Documents, 85-87.

It was not without reason that Madier de Montjau accused the men of 1815 of a disposition to renew their former excesses. He had recently saved the Gard from a civil war. While he was at Nismes, as president of the *Cour d'Assises*, the garrison of the city was imprudently withdrawn, before the troops destined to replace it were at hand. France was at that time in a general agitation, in consequence of a proposition rashly and unexpectedly made in the Chamber of Peers, to subvert, on pretence of reforming, the national representation. Excited by this attempt of their friends in the Chamber of Peers, and encouraged by the absence of the garrison, the men of 1815 made an effort to regain their power, and renew the frightful excesses of that period. The National Guards that had been disbanded, re-appeared in public with their arms and uniforms; Protestants were insulted in the streets; sanguinary cries were raised; mobs assembled; and when some of the more turbulent were arrested and committed to prison, their comrades broke into the jail, and carried them off in triumph. Every appearance denoted the approach of another massacre, when the Protestants, fatigued with the length, and exasperated by the merciless character of their persecution, took courage from despair, and determined no longer to suffer themselves to be slaughtered with impunity. Arming in their turn, and confiding in the promises of support they received from the peasantry of the Cevenness, they assumed an imposing attitude that struck terror into their adversaries. Blood was about to be shed, when the president of the *Cour d'Assises* was once more prevailed upon to be the pacificator of the department. At the intercession of their old and constant friend, the Protestants abstained from violence; and, according to the confession of the *procureur-général* himself, saved the department by their moderation. The more rational and considerate of the Catholics were grateful to Madier de Montjau for his interference, and separated from their companions; but some of the more infatuated of the rabble remained in arms, till the arrival of the military put them to flight.*

The failure of this attempt, and the firm and menacing language of M. De Serre, discouraged the assassins, and filled them with apprehensions for their safety. But the subsequent remissness of the Government allayed their fears; the renewal of the plan to alter the election laws revived their confidence; and the murder of the Duke of Berri restored to them their former boldness and activity. Immediately after the news of that

* Madier de Montjau.—Plaidoyer, 44-59.

fatal event, Trestaillons, who had fled in dismay after the speech of M. De Serre, re-appeared at Nismes, *la menace à la bouche*; the most frightful agitation followed; for three days nothing was heard but cries of vengeance and threats against the Protestants, as if they had been the assassins of the unfortunate Prince. Suddenly, and without any apparent cause, the most profound calm succeeded to this violent agitation; the Prince and his murderers seemed forgotten. It was the fortune of Madier de Montjau to obtain the solution of this enigma, and bring to light the secret agitators at Court, in whose hands the assassins at Nismes were mere puppets, moved and quieted at pleasure. By means which it would be long to relate, but through a channel on which he could rely, two Circulars from the Central Committee at Paris to their adherents in the departments, came into his possession. The first of these Circulars, marked No. 34, and written soon after the murder of the Duke of Berry, contained the following expressions. ‘ Ne soyez ni surpris, ni effrayés; quoique l’attentat du 13* n’ait pas amené sur le champ la chute du favori, agissez comme s’il était déjà renversé; nous l’arracherons de ce poste si l’on ne consent pas à l’en bannir; en attendant, organisez vous; les avis, les ordres et l’argent ne vous manqueront pas.’ These instructions arrived at Nismes on the 18th of February, and were immediately followed by the furious agitation and threats against the Protestants already described. The sudden calm that succeeded was produced by the second Circular, No. 35, which arrived from the same committee three days afterwards, and contained the following instructions. ‘ Nous vous demandions, il y a peu de jours une attitude imposante; nous vous recommandons aujourd’hui le calme et la reserve les plus soutenus. Nous venons d’emporter un avantage décisif, en faisant chasser Decazes. Des grands services peuvent nous être rendus par le nouveau ministère; il faut donc bien se garder de lui montrer des sentimens hostiles. Nous vous le repetons, du calme, le plus grand calme.’† These Circulars were not confined to Nismes, but sent on the same day to every department in France, where the Secret Government has its ramifications.

The persons who communicated to Madier de Montjau these important papers, from apprehensions for their own safety, exacted from him a solemn promise, that none of the individuals implicated in the correspondence at Nismes should be made known, till a satisfactory assurance was obtained from the Go-

* i. e. The murder of the Duke of Berri.

† Madier de Montjau—Petition, 4, 5.

vernment, that the chief of the faction should be brought to justice; and having convinced him, by a comparison of hand-writings, that the writer of the Circular he had seen, was the author of the famous *Note Secrette*, they demanded, as a pledge of support from Ministers, that the well-known author of that treasonable performance should be brought to trial, before the Circulars were delivered up. Glad of an opportunity to crush a faction which he had so long combated in vain, Madier de Montjau acceded to these terms; and, in a petition to the Chamber of Deputies, gave an account of the disclosures that had been made to him.* In this petition, he exposed at length the secret machinations of the Ultra-royalists, and indicated, in terms too plain to be misunderstood, the person pointed out to him as the author of the Circulars. It was from no distrust of the good intentions of the Ministry, but from an apprehension of their want of firmness and vigour, that he took this method of bringing forward his accusation; and, though he failed in obtaining the inquiry he demanded, the publicity of his petition disclosed to the whole of France the existence of a secret government or faction, which, in the words of St Aulaire, ‘semble reconnaître une autre loi que la loi, un autre gouvernement que le gouvernement, un autre roi que le roi lui-même.’

The conduct of Ministers on the petition, as Madier de Montjau had foreseen, was timid and irresolute; and, to him individually, considering the approbation and favour with which they had received his former communications, their behaviour was harsh and ungenerous. On his refusal to give up the Circulars, without obtaining the conditions on which they had been confided to him, he was summoned before the *Cour de Cassation*, and by that tribunal reprimanded for persisting in his refusal, for breach of his duty as a magistrate, in publishing, without leave, his reports to the Minister of Police, and for aggravating his other offences by writings, ‘propres à entretenir la méfiance et les haines parmi les citoyens.’ Notwithstanding this censure, which was the only punishment the Ultra-faction could obtain, no one can read his manly and eloquent defence (his *Plaidoyer*) without being convinced that he was actuated throughout by the most pure and honourable motives; and that, if the ministers had dared to prosecute the offenders he brought to light, they might not only have exposed and punished the real contrivers of the massacres in the Gard, and of the other excesses in the south of France, but extinguished a dangerous faction

* Madier de Montjau—*Plaidoyer*, 67-75.

which seems destined, one day or other, to revive the Revolution, and replunge the kingdom in civil war.

Our readers will naturally ask, Who is the person pointed at by Madier de Montjau as the author of the Circulars, and principal agent of the Secret Government? At present, we shall only answer, It is the same person that addressed the *Note Secrete* to the Allies; the same person, *à la tête et au cœur machiaveliques*, who replied to an officer, boasting that he had taken Marshall Soult prisoner: 'Insensé! apprenez de moi, que dans les conjonctures où nous sommes, on n'arrête pas un Maréchal de France; on le tue.' These marks designate the man sufficiently in France. It would be easy to name him; but as Madier de Montjau has abstained from doing so in direct terms, we shall imitate his reserve.

The facts brought to light by Madier de Montjau leave no doubt of the existence of what he terms the *gouvernement occulte*, nor of the activity of its correspondence in the provinces, and its close and intimate connexion with the assassins of the Gard. No one need wonder after this, that the persecution at Nismes was suffered to go on for so many months, without any effectual opposition from the agents of the Government, though contrary to the orders and instructions issued by the King; nor is it longer a matter of surprise, that assassins, so powerfully protected, have hitherto escaped, and still set at defiance the arm of police.

We are therefore to regard the massacres at Nismes as neither entirely religious, nor entirely political. On the part of the ruffians, to whom the executive was left, the persecution was religious—the result of blind fanaticism and furious hatred of the Protestants. On the part of their protectors of a higher rank, it was partly, and perhaps principally, political. Some chiefs of the Ultra-royalists *may* be as bigotted and fanatical as the lowest and most ignorant of their followers; and some of the Churchmen, who have influence in their party, *may* be excited by the same intolerant spirit of persecution that animated their posterity in the days of Louis XIV. and XV. But it would be unjust to impute to the whole of that or of any other party of the present day, the narrow-minded and intolerant principles of their ancestors, or to suppose that they could be so unmindful of the generous treatment they received from a Protestant nation, as to cherish inveterate sentiments of hostility against the professors of the same religion in France. But they are dragged along in the course they have taken, by the circumstances in which they are placed. They require, for the objects they have in view, the support of some popular feeling

in France; and find no zéalous adherents but among fanatics, whose concurrence they are compelled to propitiate by indulging them in all their evil passions. They must sacrifice the Protestants in order to obtain a party among the Catholics; they must protect assassins in order to have partisans; nor can they extricate themselves from this position, without renouncing their extravagant hopes, reconciling themselves to an order of things they are unable to subvert, and honestly seeking to consolidate the new constitution of their country, by uniting all the good and moderate in its defence.

In the mean while it is evident, from all that passes in France, that the party to which we allude looks for its principal support to the predominance of the clergy, and to the revival, not of the true spirit of religion, but of the bigotry and intolerance that too often usurp its name. Instead of adding to the number and stipends of the inferior clergy, who might be usefully and respectably employed in their parishes, they have increased the number of bishopricks, in order to reward and excite the zeal of the intolerant, and infuse at once a more ardent fanaticism into the Church. Distrusting the activity of the parochial clergy, they send missionaries through the kingdom to preach up the miracles of saints, and make a traffick of indulgences, that would have disgraced the sixteenth century, before the Reformation. It is the same principle that makes them prefer the instructions of the *frères ignorants* to the more useful and expeditious method of *enseignement mutuel*; and to the same necessity of conciliating partisans for their future projects, must be attributed their protection of the slave-trade, and determination to obstruct every measure that tends to its effectual abolition. It is not that they have any partiality for the slave-trade; but they are in want of adherents, and not ashamed to purchase, at that price, the support of the ancient planters and merchants connected with the Colonies.

But it is chiefly to the revival of fanaticism that the Ultra-royalists look for such additional strength as will enable them to accomplish their designs. It is not religion they want, but slavish submission to the Church. 'Un des caractères de la religion,' says their favourite author, 'est de ne jamais raisonner avec les hommes.'* It is not mere Catholicism that will satisfy them; they must have a detestation of heresy. No religion can last, they pretend, unless it be animated with a hatred of every other. 'Aucune religion ne peut subsister qu'en repoussant toutes les autres—elles expirent en s'embras-

* La Mennais. Essai sur l'Indifférence.

‘sant. † The Anglican Church they condemn as a mere political device; and falsely and maliciously represent it to their countrymen as having no other rule of faith but the will and caprice of the King. ‘L’église Anglicane, dans son essentielle organisation, n’est qu’une société religieuse, gouvernée despotiquement; un seul y entraîne tout par sa volonté et par ses caprices.’ § The English people are not better treated than their Church. The English nation ‘n’est plus une nation Chrétienne—elle touche au dernier terme de l’indifférence religieuse—elle est morte par ses mœurs.’ ||

Such are the sentiments on religious toleration—such the opinions of the English Church and people, inculcated by the most popular of the Ultra-royalist writers—and such the doctrines that party is assiduously employed at present in diffusing throughout France. That they will be successful in reviving a spirit of religion in their country, we have not a doubt: But, from the imperfect toleration admitted by its laws, and the arbitrary authority exercised by its police, we fear that the religion adopted by its inhabitants, like their republic, will be one and indivisible; and if so, it requires little sagacity to foresee, that it will be exclusive and persecuting. Every religion that founds its hope of salvation on the belief of particular tenets, is in its nature intolerant. Individuals are indulgent from reflection; but bodies of men are only taught toleration by their weakness. The liberal policy of England, by permitting sects to divide and multiply at pleasure, is the only secret to disarm bigotry, and break the power of fanaticism, without weakening the salutary influence of religion. Like the safety-lamp in ruins, it transmits the light to an inflammable atmosphere, in streams too minute to excite conflagration; but sufficiently numerous and copious to illuminate the darkness of surrounding objects.

ART. VIII. *A Tour through the Southern Provinces of the Kingdom of Naples.* By the Hon. RICHARD KEPPEL CRAVEN. To which is subjoined, a Sketch of the immediate Circumstances attending the late Revolution. 4to. pp. 449. London, Rodwell, 1821.

It is certainly somewhat extraordinary, that of the great number of travellers sent forth by the peace from this country, with the design of recording their adventures, so few should have deviated from the most frequented routes. We hardly, indeed, can recollect above two or three who have written upon

† La Mennais, 225. § Ib. 179.

|| Ib. 73, 74.

any thing beyond the limits of the *Grand Tour*; and although it must be admitted, that to mark the changes produced in the most interesting countries of Europe by the singular events of our times, was the first object in point of importance, yet it is equally clear, that a sufficient number of works has now been dedicated to this subject; and that the reader, without being very ambitious, may be allowed to desiderate 'new kingdoms.' Great praise, therefore, is due to Mr Craven, for quitting altogether the beaten tracks, and recounting, in a plain but not inelegant manner, what he observed, and what befel him in the portion of Europe perhaps the least frequented by strangers. His work, without pretending to deep science or extensive scholarship, is both entertaining and instructive. It contains the information first of all required respecting any country so little known, namely, that which an intelligent observer can easily collect for himself, and which *most* travellers could give with ease, if affectation, or absurd pretensions, did not frequently prevent them from trying to give it at all. Mr Craven seized the advantage which accidental circumstances deny to so many travellers, of having access to every person of importance, by means of his connexions with leading men and distinguished families at Naples; and he had an advantage which almost as many travellers deny themselves, that of seeing the country and its inhabitants at his leisure. He must have spent nearly five months in his excursion, including his visit to Sicily; of which he judiciously gives no account, considering the subject to be already trite. He left Naples late in April, and does not appear to have returned before the latter end of September.

Our author's first point, after quitting Naples, was Benevento; and as the *Furcæ Caudinæ* lie somewhere on or near this road, he naturally inquires into their exact position. A sensible and well written dissertation by Mr Gandy, is introduced into this part of Mr Craven's book, that gentleman having had an opportunity of more particularly investigating this question. His observations tend entirely to confirm the opinion of Cluverius, that this celebrated defile lies between Santa Agata dei Goti and Airola or Moiano.

It is a very common error to suppose that the various distinguished personages, both in France and other countries, who, during the late war, received grants of principalities or territory abroad, have only had a nominal possession. There are some instances of estates given to English Commanders, for services rendered to foreign Powers; and these, we believe, are now enjoyed by the grantees or their heirs. Thus, too, the principality or duchy of Benevento, according to Mr Craven, was

actually governed by Talleyrand and his deputies for ten years. He appointed a Saxon officer to act, both as civil and military governor; and his administration is said to have given perfect satisfaction to the inhabitants in every respect but the finance department, which was complained of rather from local abuses than from the sums remitted to Paris; for these never exceeded 14,000 ducats a year, which cannot be more, we presume, than 2000*l.* Sterling. The city contains 18,000 inhabitants; and the whole duchy 24,000. It is a singular instance of a petty state, in the heart of an extensive dominion, remaining for so great a length of time in the possession of a foreign power. Since the eleventh century, it has belonged to the Pope; and, though seized upon in almost every reign by the Government of Naples, it has constantly returned into the possession of the Church.

From Benevento he proceeded towards Manfredonia; and, passing through Bovino, which from time immemorial has been the nursery of the banditti who infest Apulia, he takes occasion to give some curious particulars of the famous brothers Vardarelli.

These three brothers were natives of the province of Abruzzo, but had of late years selected Apulia as the theatre best adapted to their system of depredation: its vast unenclosed plains, occasionally interspersed with patches of underwood, but in no part offering obstacles to the rapidity of their movements, the rare occurrence of large towns, the magnitude of the farms or *masserias*, where they were sure to find provisions, forage, and booty united; all these circumstances combining with their local knowledge of the country, and the terror which they had impressed on its inhabitants, had rendered their power sufficiently formidable to resist, or at least elude, the means pursued by government for their destruction. Well armed and accoutred, and excellently mounted, their troop, in number exceeding forty, was also trained to the most rigid discipline; and Don Gaetano, the elder of the three brothers, as well as commander of the band, displayed an activity and skill worthy of a nobler profession. It should be observed that they seldom, if ever, attacked travellers; and their outrages were generally unsullied by cruelty, except in some cases of revenge for breach of promise; but this false glare of generosity and forbearance, as well as the ample rewards which they bestowed upon their spies and abettors, and the acts of charity by which they endeavoured to propitiate the feelings of the poorer class, rendered them only a more destructive scourge to the community at large. A person who had been a severe sufferer by their misdeeds, very justly observed to me, that it was very easy to give a hundred ducats to the poor out of the thousands stolen from the rich; and as their generosity could be estimated by this rule only, the motives of it may be duly appreciated.

* The Apulian farms consist of several buildings, appropriated to the different branches of rural economy which the nature of the soil admits of; and the number of individuals employed in the various departments of labour is very great, especially during the winter season, when the cattle are all collected on the *masseria*, for the sake of a milder abode. All these attendants and their superiors, including the *agente*, or what we should call the steward, reside within the walls which usually enclose these establishments. The reader may easily form some idea of the panic spread by the appearance of the *Vardarelli* in one of these colonies, composed chiefly of timid shepherds and their families, or labourers, as unused to the exercise as they are unprovided with the means of resistance.

Their marches, generally performed in the night-time, were so incredibly rapid, that the terror they inspired was equalled only by the astonishment created by operations apparently supernatural; and they have been known to have remained two or three days in one of these farms, before the inmates of those adjoining have been aware of their proximity. During this time they usually feasted on whatever the premises afforded, always obliging their inhabitants to partake of the fare prepared for them, through fear of poison. On an occasion of this nature, when the principal agents of the farm excused themselves from eating meat because it was a fast day, Don Gaetano approved their forbearance, which, he assured them, quite agreed with his practice in general; but alleged his mode of life, and the uncertainty of his dinner-hour, as an apology for the infraction of it. On removing from the scene of action, they always took with them what money could be collected, and as much grain as their horses could carry.

Sometimes the demand, or rather command for forage, cash, provisions, and even clothes, was not made personally, but imposed through the medium of a letter to the superintendent of the farm. Neglect, or even delay in complying with the summons, or the most distant appearance of treachery, was followed by the destruction of the cattle, and the conflagration of the buildings. In these cases the mandate was confided to a peasant or labourer, whom the troop might meet accidentally. Frequently they would stop passengers, and exact the exchange of good fresh horses against their own jaded hacks; while more than once they have merely bartered their silver against an equivalent sum in gold which might be found upon the person of the traveller.' pp. 37-39.

All the resources of the Government having been in vain employed against them, they at last voluntarily threw themselves upon its mercy, and were formed into corps under their old leader, in the pay of the State, and appointed to watch over the police of that very province which had been the scene of their depredations. The consequences which might have been expected from this wise and vigorous measure, ensued. For

some time they abstained from pillage, and prevented any other robbers from committing it: But the natives never could forget their former misdeeds, even if the robbers could have remained faithful to their new employers; and about a month before Mr Craven's arrival, an affray had taken place, which ended in the defeat of the band, and the death of the three brothers, who were killed, with nine of their troop, by the brave inhabitants of Ururi, an Albanian village. The rest had taken refuge in the mountains, and refused to obey the directions of the Government, that they should repair to a certain spot in order to have the affair investigated. Our author had delayed his departure from Naples, in order that these men might reach the head-quarters of the district, where they were expected to surrender themselves; and, when he passed through Troja, finding the dismounted part of the band there, he never doubted that the rest had come in. But on his arrival at Foggia, he was undeceived; and he thus relates the catastrophe of the gang, in a manner peculiarly lively and interesting.

'I could find no lodging at the numerous inns which displayed their signs on each side of me, but were already filled by the arrivals for the ensuing fair, so that I had penetrated some way into the city before there appeared any chance of my being accommodated at all, when, just as I had turned out of a street, or rather square, in which I had observed some troops drawn out as for a parade, a sudden volley of musketry, which I took for the crash of a building falling, followed by a general flight of the inhabitants, uttering cries of terror and dismay, arrested my attention. Soon after, a gentleman, hurrying by, desired me to alight, which I did, though utterly unable to guess the motive of this advice; while a second as strenuously recommended my remounting my horse and galloping away. The first idea that darted across my mind was that of an earthquake, and a number of persons rushing at once out of an adjoining house tended to confirm it. I walked on, in vain addressing the fugitives who passed me in every direction, till a boy took my horse's bridle, and led him through some obscure by-streets to an inn at the skirts of the town, where we took refuge in a room on the ground-floor, into which my servants and the guide, together with all the horses and myself, entered, as if by one common instinct; but still in total ignorance of the cause of alarm. The cries of several women tearing their hair, and the incoherent exclamations they uttered, among which I could only distinguish the word *brigands*, at last led me to conjecture that a party of banditti had forced their way into the town, and were engaged with the regular troops. The door had been carefully barricaded at the moment of our entry; but, through the small windows, several soldiers were observable lurking about in parties, with their muskets ready, and at times a dragon passed in full gallop, apparently engaged in pursuit. These circumstances, and

occasional musket shots, confirmed my suspicions; but that a gang of robbers, however daring and desperate, should have made an attack at mid-day on a large city, respectably garrisoned, seemed so improbable, that I continued in a state of doubt till the son of my hostess made his appearance; and, after being repeatedly kissed and wept upon, by his mother and her dishevelled companions, he gave me a clearer insight into the affair, by relating, in an imperfect manner, the details, which were subsequently made known to me from a source more authentic, and which are as follows.

The remains of the Vardarelli band had presented themselves that morning before the general commanding at Foggia; they formed, in fact, part of the troops I had seen, and were, at the moment I passed, engaged in a war of words, which soon was waged with more deadly weapons. It seems that the general, who had received the intimation of their arrival, gave orders for them to be inspected the instant that it took place. After they had dismounted, and given a satisfactory account of their late proceedings, they received directions to repair to Lucera, and there await further commands. This mandate they positively refused to obey; and a long altercation took place between them and an officer sent from the commander's house, before which they were ranged, to remonstrate on the imprudence, not to say temerity, of their behaviour. The general finally commanded the two leaders to repair to his own apartment to speak to them; this they objected to do without their arms, which they declared they would never part from; and it is supposed that the language they made use of in the course of their argument so exasperated the officer, that he roughly pushed one of them back, who was using threatening gestures, on which the other fired his musket at him, but having missed his mark, was shot dead on the spot by the sentry at the gate. This was the signal for an attack from his companions; that was immediately answered by a round of musketry from the troops who were drawn out close to them, which killed several, and spread consternation among the crowds of townspeople who had assembled on the spot. Four of the band, who had presence of mind to spring upon their horses, escaped in different directions out of the town, though followed by cavalry, and fired at as they fled; another portion were made prisoners; but a third division sought security in a cellar, the first place of refuge which offered itself, and which, having only one very low entrance, afforded them a defensible asylum for some time. The depth and darkness of this receptacle made it difficult to attack them with success; for they killed a soldier, and wounded several others, who had ventured too near the aperture. Of this last desperate set, four, however, gave themselves up, and made known the number that remained. In order to bring as speedy a termination as possible to the dismay and agitation which this event had spread throughout the city, two of those who had been last taken were sent in to their companions, with their hands tied, to persuade them to surrender, and to inform them,

that, if they persevered in a resistance, which, from the local nature of their retreat, must be unavailing, a straw fire would be lighted at the orifice, as the only means of hastening their compliance or destruction. The unfortunate men never returned; and no answer being given, this threat was put into actual execution, and the aperture blocked up with stones. Imagination pictures their situation as most horrible; but its terrors were eluded by the last resource of despair. Two hours afterwards, the cellar was entered without opposition, and their lifeless bodies, covered with wounds, indicated the death they had received at each other's hands! pp. 51-58.

But the most striking part of the story remains untold. Our author had leisure, as soon as tranquillity was restored in the town, to present his letters of recommendation to the Commandant and Intendente, from whom he received great civility; and having also a letter, by way of safe conduct, to one of the Vardarelli band, who had been in the service of a respectable inhabitant of Benevento, and always attended to his old master's requests of this description, Mr Craven inquired, by message, whether this individual had survived the events of the morning. The answer from the prison, by some mistake of the question, was, that he might see the man; he went, and was ushered into a low vaulted room, where the naked bodies of the robbers lay exposed on some straw, and, among them, was pointed out to him that of the man he had asked for! The remarks to which this sight gave rise, are just and natural, and, upon the whole, not ill expressed, making a small allowance for the fine writing into which the unwary traveller is pretty sure of falling upon such an occasion.

The infliction of a sudden and violent death on a robust and active frame, is far from producing those effects which the repeated attacks of disease, or the gradual decay of the vital powers, leave impressed in characters so awful or offensive on the human countenance—the setting rays of the same sun which had cast its morning radiance on beings moving in the full energy of existence, now shone on their lifeless but not inexpressive features. The turmoil of passions which had agitated the last dreadful moments of their existence, was visibly, though variously, depicted in every face, nor could the expression be mistaken; the sullen brow, strongly contracted over the glaring eyeball, the pallid lip curled to a sardonic smile, each bespoke the final agonies of desperate bravery, ineffectual revenge, or the hopeless struggles of expiring crime. The colour of the cheeks was fixed, but not extinct; and nought but the attitude was that of death. They had been stript of every article, save the reliquaries or consecrated images, which the lower classes in Italy invariably wear round their neck, and which now rested on the ghastly wounds that disfigured their bodies, some of which were also blackened by smoke. None of these men were above the age of

forty, while most of them were considerably younger. It was said that individuals of every nation were to be found in their ranks; but I believe that a Frenchman and an Hungarian were the only two who were not natives of Italy.' pp. 59, 60.

It is impossible to read these and other accounts of the exploits performed, both by the Neapolitan banditti and by the peasantry or villagers in resisting them, without being convinced how foolish the notion is which some have taken up, from the recorded defeats of the Neapolitan armies, that there is an inherent want of courage in the people. Among a nation destitute of all bravery, no such bands of men could spring up as those whose behaviour entitles us to say, that contempt of hardship and of death is almost their only good quality. If the larger bodies of Neapolitans, when collected under the command of the Government, have but too often disgraced themselves; if, especially upon a late occasion, they have disappointed the hopes of all good men, and, for the present at least, rivetted the chains of their country, while they have given strength to the inveterate enemies of universal liberty—we may safely conclude, that gross mismanagement among their leaders, added to the fatal effects of a long course of misrule, has been the principal cause of the deplorable failure. Errors of the most extensive importance were indeed committed in the eyes of all Europe; nor would it have been easy, by any excellence of local arrangements, to counteract their effects. Insisting at first upon the Spanish Constitution as the only form of government to which they could submit; then suffering the King to leave the country; afterwards refusing every offer that was made, although they had no means of resisting a large foreign army, and had never, in fact, laid their account with driving matters to the last extremity—these were blunders and inconsistencies sufficient to ruin their affairs, had their forces been far better prepared, and their officers, in all departments, perfectly trustworthy. But that this ruin should be accomplished without striking a blow; that all should be over before even an effort was made; that the nation should not even make resistance enough to sustain a defeat at any one point—in short, that there should have been no kind of fighting at all, when it is certain that, in some places, the invaders were in no strength, and must have fallen back at the first show of resistance—can only be explained upon the supposition of the most culpable conduct among the persons having the direction, both civil and military, of the campaign. Without imputing treachery, indeed, it is hardly possible to account for the lamentable and humiliating truths which sadden all our recollections of Neapolitan affairs.

Manfredonia is described as a well built and beautiful town, containing, with its dependencies, about 15,000 inhabitants, whose houses are distinguished by a peculiar taste, and an appearance of cleanliness far from usual in the south of Europe. It is not, however, in a flourishing state; and the neighbouring marshes have so fatal an effect upon the health of the people, that our author was desired to remark how very few women were to be seen above forty. Those inhabitants, however, whom he saw, were distinguished for their comeliness. The following sketch seems rather of the Dutch or Flemish, than of the Italian school.

‘ There are four narrower streets parallel with the principal thoroughfare, and these are again connected by smaller branches intersecting them at right angles. They are distinguished by an attention to cleanliness not usually observable in a southern country; and the interiors of the houses belonging to the lower classes, which, having but one large door to the street, were generally open to public inspection, were remarkable from the same circumstance. A large bed, covered with linen of the most dazzling whiteness, constituted the principal article of furniture; above it, some pictures or prints, in handsome gilt frames, relieved the monotony of a white-washed wall, on which not a speck could be discerned. A solid and well-polished chest of drawers, a substantial table, and some neat straw-chairs, were ranged along each side wall; and I was informed by the commandant, to whom I pointed out the striking neatness of these arrangements, that the inhabitants piqued themselves so much on the strict observance of them, that they every morning made up their beds with a pair of fine sheets, which, being again removed at night, were never destined to be slept in.’ p. 69.

The picture of St Angelo, however, is very plainly from Italian original.

‘ The town of St Angelo is irregularly built. Its narrow streets, rising on different levels, and choked with mud and filth, were teeming with innumerable devotees, of all ages and sex, eagerly thronging towards the sanctuary, which they had travelled wearily to visit. I was assured that they came from all the towns and villages constituting the population of Garganus. Some days were yet wanting to the 8th of May, on which the apparition of St Michael is commemorated; and the different mountain tribes, the male part of whom were armed cap-à-pie, brought with them not only their beds and other articles of household furniture, but even kitchen utensils; so that house-room was all that they required, and for the attainment of this, great altercation seemed likely to ensue. The approach of so many thousand individuals, clad in picturesque habits of every colour and shape, toiling with their heads uncovered, beneath a noonday sun, up the several paths which lead from the interior of the mountain, and all unite under the ancient gateway at the entrance of the

town, formed a spectacle at once so novel and impressive, that I rested there some time to enjoy it. Each party, when within sight of the town-gate, joined in an hymn of simple but not unpleasant melody, every stanza concluding with a louder chorus of *Ora pro nobis*. The transition of key in these different chants, as they succeeded each other, and the gradual swell of sound as they drew nearer, were not the least striking effects of this scene; heightened, moreover, by the surrounding accompaniments derived from mouldering walls, broken battlements, grotesque houses, and one of the most imposing castles I ever beheld.

'In these elevated regions the change of climate, and the severity of its effects, were clearly visible in every edifice: the discoloured tiles, the rough-grained stone, the stained stucco, cracked and crumbling in every part, together with the clusters of trailing weeds that sprung from every crevice, bespoke the ravages of a damp and variable atmosphere, and offered a singular contrast with the uninjured buildings of the plain below.' pp. 72, 73.

The great number of towns and villages through which the road passes, from Manfredonia to Brindisi, are described in a very distinct and sensible manner; and the account is, from time to time, enlivened with historical anecdotes, of which the most interesting is the narrative of a famous single combat, fought in the seventeenth century, between the Prince of Francavilla and the Count of Conversano, attended with all the circumstances of Italian treachery and violence. At Brindisi, he met with an adventure of a nature at once tormenting and ludicrous, being taken, whether he would or no, for a Prince travelling in disguise, and overpowered with all the civility and respect due to that rank. His account of the scenes to which this gave rise is extremely laughable; we can only make room for the first part of it. At the monastery where the mistake originated—

'We found the outward gate open, and had scarcely passed the threshold, when the Abbess and the elder portion of the community rushed from the inner court, and led, I may almost say dragged, me into the cloisters, calling upon my astonished companions to follow; as it was a day of exultation for the monastery, and all rules and regulations should be dispensed with. It was evident that the splendour of royalty once again shone on my brow, and that, notwithstanding my wish to preserve the strictest incognito, the distinctions and honours due to the blood of Otto of Wittelsbach must, in this instance at least, be rendered to his descendant, in spite of his assumed humility. This determination showed itself in a variety of forms, with such prolonged perseverance, that the ludicrous effects which it at first produced were soon succeeded by more serious sensations of impatience and annoyance. Before I could utter my first protest against the torrent of tedious distinction which I saw impend-

ing over my devoted head, I was surrounded on all sides by the pensionaries, who, to the number of thirty, presented me with flowers, and squabbled for precedence in the honour of kissing my princely hands. This was by no means the least distressing ceremony I was to undergo; and for an instant I felt the wish of exerting the prerogatives of royalty, either by prohibiting the exercise of this custom, or render it more congenial by altering the application of it. I seized the first opportunity of requesting my companions to interfere in behalf of my veracity, when I assured them that I was only an English traveller, which my letters of recommendation, describing my name and condition, could testify. The smile of good-humoured incredulity played on the lips of my auditors, who replied that they would not dispute my *words*, but, should not be deterred by them from giving way to the joy which ought to signalize a day which must ever be recorded in the annals of their establishment. They added, that it would be useless for me to contend against the ocular proofs they had obtained of my quality and birth; and when they enumerated among them the air of dignity which I in vain endeavoured to conceal, the visible emotion I experienced on beholding the arms and pictures of my ancestors in their church, and my constantly speaking Italian, though I had affirmed that I was English, I own that I was struck dumb by the contending inclinations to laugh or be serious. My host, who was brother to the Lady Abbess, begged I would exert my complaisance so far as not to resist their wishes, as it would be put to a shorter trial by compliance than opposition; and I therefore yielded, after a second solemn protestation against the distinctions thus forced upon me. These consisted in a minute examination of the whole monastery, beginning with the belfry, to which I was conducted by the pious sisterhood, singing a Latin hymn of exultation. I had scarcely put my head into it when a sudden explosion, for I can give it no other term, took place of all the bells, set in motion by the pensionaries who had preceded us; after which I was successively led to the kitchen, the refectory, the dormitory, Abbess's apartment, the garden, and, lastly, the sacristy, where I was desired to rest. I looked round to implore the aid and compassion of my followers, when I found myself sitting in a huge crimson velvet chair, richly gilt, and surmounted with a royal crown. Here I again manifested some symptoms of rebellion, but found it necessary to stifle them, when the opening of several large cases informed me, that a display of all the relics was going to take place. These were numerous, and, as I was informed, chiefly the gifts of my great grandfather when the convent was endowed, though several had been since sent by my less distant progenitors. Bones and skulls of saints, whose names were as new to me as they would be, were they enumerated to the readers, passed in rotation before my eyes: these were generally preserved in purple velvet bags, embroidered with pearls; and the different vessels and ornaments used in the rites of the Catholic church were of the most costly materials and exquisite

workmanship, all of which, by turns, were offered as presents to me.' pp. 157-159.

The oppressive civilities here described, it must be observed, hardly exceeded those to which he was doomed, when, without any such mutation, he went to the houses of principal nobility in parts of the country where the inns afforded no accommodation. His introduction being of course highly respectable, and his consequence known, his arrival was the signal for a fête, to which every one near was invited. The sight of a stranger was itself a rare and important event in any of those ancient castles; and when he wanted merely a little refreshment, a bed, and the opportunity of seeing what was to be seen at his leisure, he had to wait whole hours for magnificent preparations, to sit up till the entertainments were concluded, and to yield his time and steps to the guidance of those who thought far more of their own displays than of his comforts or plans. This inconvenience seems to have pursued our author almost throughout his journey; although, with his accustomed good nature, and kindly and grateful disposition, he seems to have taken it all in good part, and rather leaves more selfish and testy readers to feel how greatly they would have been ruffled, than betrays any marks of his own discomposure. In one place, Tarsis, indeed his reception formed a striking contrast to the general hospitality of the country. The owner of the house to which he was recommended, without any of the accustomed compliments, told him, that 'he might make what use he pleased of his rooms; but that Spezzano (the next stage), far from being the miserable place it had been represented, afforded not only a good inn, but the luxury of a coffeehouse.' He added, that Mr C. 'might easily have gone there, or even as far as the stage beyond; but that he would not allow him to want for any thing in his house, where he had often before been happy to receive foreigners recommended by his friends, though they knew how inconvenient their presence must be.' This lecture ended in an order to the cook, to receive not only our author's directions, but his money, wherewithal the raw material of the dinner was to be purchased; and the host took leave, with an earnest exhortation to an early departure next morning, upon the grounds of safety and expediency.

The tract of country called Sila or Sylva, which extends about eighty miles in length from Cosenza to the extremity of Calabria, is composed of land exceedingly high and well wooded, but interspersed also with fine pastures, delightfully watered. In the winter the climate is severe; but in the summer months, it is the resort of large flocks of sheep, driven from the low country.

There are hardly any towns or hamlets; but huts are constructed for the accommodation of the shepherds and owners of the flocks.

'When the first symptoms of the return of hard weather manifest themselves, these colonies begin to prepare for a removal to a more genial climate: every thing is packed up, the cattle collected, and not a single article left within the walls of the houses. These are carefully closed, so as to give no admission to the snow, which frequently buries them during the whole winter to the depth of several feet, and every living being puts itself in motion towards the plain. During my stay at Catrone I witnessed the passage of one of the most opulent of these emigrating landholders through that town on his way to the Sila. He was married to the daughter of the gentleman in whose house I lodged, and they both stopped for one night on their road from Isola, a small episcopal town situated eight miles distant behind the Lacinian Promontory, which was their habitual residence. The husband, a good looking stout young man, in a dress very like that of our English farmers, seemed delighted at the prospect of the journey, and anticipated the advantages which his cattle would derive from a sojourn in the mountains, as well as the amusements which awaited him in the shape of fishing and shooting. The perspective of a few months' residence appeared by no means to afford so bright a prospect to his wife, an extremely pretty woman, apparently much devoted to her children, but at the same time regretting the luxuries and polished society of Isola.

'The flocks had begun their progress the preceding day, and formed no part of the singular picture exhibited by the collection of horses, mules, and asses, carrying furniture of every description; household goods, kitchen utensils, barrels of wine, sacks of flour and wheat, hen-coops well filled with live inmates, and a suitable accompaniment of dogs, cats, and pigs.

'The young family was numerous, and the train of nurses and female attendants proportioned to it; while mule-drivers, menial servants, and a respectable band of well armed *guardiani*, together with the spiritual director of this little colony, closed the procession, which recalled to my imagination the days of patriarchal simplicity.' pp. 243-244.

Near La Serra, our author visited the scanty remains of St Stefano del Bosco, formerly one of the greatest monasteries in the south of Italy. Its monks were eighty in number, and the servants, labourers, and other attendants, amounted to three hundred. Every succeeding monarch enriched it, and the abbots never failed to leave some memorial of their devotion to its interest. Thus it was for seven centuries; but three minutes destroyed it, in the dreadful earthquake of 1783. Mr Craven was accompanied to the spot by an ancient man who had been in the service of the house. The fathers were, it seems, em-

ployed in the ceremonial of receiving their abbot, who had just returned from a journey, when they heard the internal rumbling noise which immediately precedes the explosion, and had only time to run through the cloisters and escape. 'They had,' said the old man, partly through fear, partly through the difficulty of maintaining an upright position upon a surface which heaved like the waves of the sea, all fallen prostrate the instant they were out of immediate danger; a short, but dreadful interval succeeded, during which nought was heard but shrieks of terror uttered by those who fled, the agonizing groans of those who deemed escape impracticable, and the crash of materials, rent into detached masses, falling against each other to the ground. When the monks ventured to raise their eyes towards the walls, which had witnessed many years of their peaceful existence, and within the precincts of which they had hoped to terminate their career in pious inactivity, a dense cloud of dust was rising from the midst, as smoke from a furnace; but the proud monument of their order had passed away like the breath of their nostrils; in the words of my guide, "had left but its name behind." pp. 266-267.

At Casalnovato and Terranova, he saw the traces of this dreadful visitation in a singular form.

'I found a village formed of one straight street, containing 700 inhabitants, placed in the midst of ruins, which were those of a town of 13,000 souls. These present to the eye masses of masonry of immense size, scattered in all directions, and frequently retaining the forms they originally possessed, but inverted or transposed in the most extraordinary manner. A house situated 300 paces from a little river that runs in the ravine under Terranova, was slipped, by the motion of the earth, close to the edge of it; and, though the roof and a portion of its walls fell in by the force of the shock, two of its inmates crept out unhurt. Another most singular feature in the ruins of Terranova is presented by one of the watch-towers of the baronial castle, which was precipitated off its base down the side of the declivity, and to this day exists in almost an entire state, with its battlements downwards. The ground sank so much in some places, that the circular shaft of a well, which was once entirely concealed by the soil, now rises to the height of six feet above the surface: its immobility during the universal commotion is attributed to the rock on which it is probably founded. Similar peculiarities were observed in the destruction of Oppido, a considerable town, considered by Cluverius as placed on the site of the ancient Mamertium.

'Terranova, in its present state, occupies one of the most lovely situations which it is possible to imagine; and the scars, if I may so call them, which the earthquake has impressed on the face of nature, are far from producing a detrimental effect on its general aspect. The luxuriance of vegetation peculiar to all the rents and chasms

produced by this extraordinary convulsion, is not the least remarkable circumstance attending it; and the changes which are perceptible in the course of the neighbouring streams, their total failure in some places, and their unexpected appearance in others, may perhaps rank amongst its more immediate causes.' pp. 271, 275.

The space over which the action of this earthquake extended, was in one direction 140 miles; and, to this day, its traces are visible all over this large district. Among other marks, the want of good buildings is conspicuous; the houses are now generally of wood, on a slight foundation of stones, seldom above one story high, and made without any ornament. But by far the most striking circumstance which we have ever seen related of this calamity, is the fate of the Prince of Scilla and his vassals. The reader of the following extract will at once be reminded of that awful catastrophe which befel the town of Calloa, the port of Lima, and all its inhabitants, as related by the only person who escaped, and who, from the signal-post where he was stationed above the town, first heard a loud *miserere* arise from ten thousand voices, and then was aware, by the instantaneous silence, never more to be broken, that a vast wave had overwhelmed them.

'The shock which all this portion of the Calabrian coast experienced on the morning of the 5th of February, had been highly detrimental to the town of Scilla, and levelled with the dust most of the houses situated on the upper range. The castle had also suffered considerable damage; it was the residence of the Prince, whom advanced age and infirmities had rendered almost indifferent to the fate which appeared to threaten his existence, in common with that of the whole population. He had determined to await the event before the crucifix in his chapel, but was persuaded to leave the walls of a mansion which appeared scarcely able to resist further concussion, and seek his safety in flight towards the mountains, where he possessed a magnificent residence called La Melia; but the road that led out of the town was so incumbered with the ruins of the buildings which had been overthrown, that it was resolved to defer his departure until the following day; and a temporary and apparently secure asylum was sought on the strand of one of the two small bays which are separated by the castle, and form harbours for the fishing-boats. To the largest of these, on the southern side of the promontory, this nobleman retired, and prepared to pass the night in a felucca, which had been hauled up on the sand, with all the other vessels belonging to the place; serving as receptacles for the remains of property or household goods saved by the unfortunate owners out of their fallen habitations. Here all the surviving individuals had assembled, and, after a day of terror, hoped to pass a few hours of comparative ease and tranquillity. The Ave Maria had been said, in which the feudal despot and all his vassals, now reduced to one

common level of humiliation by the visitations they apprehended, had joined with all the fervour of penitence and fear. The cries of motherless babes, and the lamentations of childless parents, had subsided with the commotions of the earth; while grief, terror, and even despair, lost their power of excitement, and all had sunk under the languor of bodily as well as mental exhaustion. Not a breath of air disturbed the stillness of the atmosphere; not the slightest ripple was audible on the surface of the sea: it seemed as if the elements, mankind, and Nature herself, had wasted their energies, and yielded to the necessity of repose.

'At about half-past seven, a distant but loud crash proclaimed some new disaster, and awakened to a fearful state of suspense all the silent sufferers. A powerful recurrence of the morning's shocks had severed a large portion of Mount Baci, which forms the next promontory towards the south, and dashed its shivered mass into the sea. The darkness precluded an immediate communication of this event to the trembling population on the sands, and also shrouded from their knowledge the anticipation of its consequences. They were roused by the earthquake; but, extended on the beach, and out of the reach of all buildings, they thought themselves comparatively secure from real danger. A low rustling noise soon was heard, and gradually but rapidly increased to the roar of the most impetuous hurricane. The waters of the whole canal, impelled by the pressure of the fallen mountain, in a single wave had rushed with irresistible force over the opposite point of the Faro, which it entirely inundated. Thrown back towards the Calabrian coast, it passed with impetuosity over the shore of Scilla; and, in its retreat to the bosom of the deep, swept from its surface every individual who had thought to find safety in the bareness of its sands. One abhorrent shriek uttered by the united voices of 4000 beings, thus snatched to eternity, re-echoed from the mountains; and the tremendous wave returning a second and last time, rose to the elevation of the highest houses that yet remained entire, and buried many of them in masses of mud and sand, leaving on their flat roofs, and among the branches of the trees which grew out of the impending rocks, the mangled bodies of the victims it had destroyed. But these were not many; for the mass, including the Prince of Scilla, were never seen or heard of more.' pp. 297-299.

At Monteleone (the ancient Orbona), near Maida, Mr Craven was shown a temporary theatre, which the French army had fitted up while quartered there. It exhibited a characteristic specimen of their manners and habits. All had contributed to its embellishment; and the fronts of the boxes were painted by General Regnier himself, the commander in chief. This neighbourhood was rendered famous not only by the battle, but by the unfortunate Murat having here been taken and put to death, with the empty forms of a trial, rendering more appar-

ent the truly revolutionary injustice, which might have escaped observation in the hurry of an actual conflict or violent seizure. He landed on the 8th of October at il Pizzo, where he in vain endeavoured to raise the inhabitants; they hardly stopped to hear his harangues. He had been a signal benefactor to Monteleone, and was proceeding thither, when an agent of the Duke of Infantado, who has estates in the neighbourhood, in revenge, it is said, for the conduct of Murat at Madrid towards the Duke, got together some of the people, and pursued him. When taken, he was insulted by the rabble, and especially by a woman whose son had been executed as a robber. His arrest was announced by telegraph; and, by the same clear, distinct, and most deliberate mode of conveyance, the pleasure of the legitimate Court of Naples was communicated. In pursuance of these orders he was tried, and of course condemned;—the sentence was executed on the 13th. Our author had more than once heard him express his conviction, that he should receive his death from a musket shot; probably expecting it in the field of battle. The only part of the volume before us which appears to us blameable, is the severity of the remarks on Murat and his Queen—certainly uncalled for during the misfortunes of the one, and after the lamentable fate of the other; and the more unnecessary, inasmuch as our author has not thought it incumbent on him to make any remarks on the atrocities committed by certain legitimate Kings and Queens in the Bay of Naples, although the subject is brought within his recollection in p. 372, by the distant allusion to scenes which every Englishman must wish buried in oblivion, for the honour of his country, and the memory of one of her most illustrious warriors.

Mr Craven has given some information respecting the subversion of the feudal privileges of the nobility, accompanied with several remarks, in general judicious, but leaning too much towards the interests of the privileged classes. The first attack upon them was certainly not made by the French, or by the revolutionary party; but first by the crown itself, which had abrogated their right of capital punishment, and afterwards by a minister (we believe Acton), who had been opposed by a portion of the nobility, and chose to revenge himself upon the whole. Many of the remaining privileges had been gradually curtailed; but the barons still retained a powerful influence in a country where the people were plunged in ignorance, and the laws in remote districts most imperfectly administered. The second occupation of the French completed the destruction of these odious and oppressive rights, by introducing the new code of laws; but, if our author is correct in his statement, this was attended with a gross injustice to the owners of the estates, in

respect of their property. 'A commission,' he says, 'was established, to settle the question of indemnification to such whose claims were founded on land formerly possessed by their ancestors, and granted in perpetuity under the term *emphyteusis*, to the township, hundred, or even single tenant, who became charged with an hereditary rent in kind to the family of the original proprietor;—in other words, the lords had done what, in Scotland, we term *feuing*, granted leases in perpetuity at a fixed rent, only that the whole rent seems to have been in kind; whereas, with us, a small part only is, generally speaking, so reserved, and, in more modern grants, no part at all. The date of those grants, it seems, was frequently as ancient as the origin of the families themselves, and the charters were lost or destroyed; nor was any evidence of their ever having existed to be found, except very long enjoyment. Now, according to Mr Craven, a decree was made, ordering all who claimed compensation for the loss of such rents, to produce their documentary evidence, as the only ground which could be admitted. This at once cut off those who had no title-deeds. Then, many who had such deeds, having deposited them in the Archives at Naples, were equally deprived of them, by the destruction of that repository in the dreadful excesses committed at the restoration of the Royal Family. So far, all is very intelligible; but our author adds, that the act of injustice which thus deprived the proprietors of their rents, was of no benefit to the other classes, who were only 'tolerated' from several ridiculous and antiquated observances, and in no other manner benefited by an operation directed entirely to the profit of the government that had planned it.' Now, certainly, if the payment of the emphyteutic rents ceased in all cases where there were no title-deeds forthcoming, and if, through time and the accident at the restoration, very few were to be found, how gross soever the injustice of the proceeding might be, there can be no question that it benefited the vassal as much as it injured the lord: But, from the latter part of our author's remark, we have little doubt that he has stated the facts imperfectly, and that these acts of spoliation were entirely for the benefit of the government. Indeed, it is pretty well known that the present restored dynasty, after the expulsion of Murat, carried the principle of confiscation so far, as to deem it a title in the state peculiarly sacred; for their own adherents having been punished for supporting their cause, by the loss of their estates, which became crown lands, the whole, or nearly the whole, of the property thus acquired by the new dynasty was retained by the old, instead of being restored as a matter of course to the unfortunate owners, who had only lost it because

they were supporters of the family. Had it indeed, as in France, been sold, and the recovery of it become impracticable, without a total subversion of the new order of things, the case would have assumed a very different aspect; nay, had emigration in all cases been the ground of the forfeiture, something might have been said; but that the family itself, for whose sake the loss was incurred, and, in many instances, by the political conduct of the proprietors within the country—that this family should profit by the spoil, seems almost too much for belief, even after all that has been seen of restorations—and goes far towards fortifying the opinion of those who hold them to be ‘the worst kind of revolution.’

Our author admits, that the new system of jurisprudence was most advantageous to the community at large; and that the families who retained property in their hands were greatly benefited by the abolition of *majorats* (*entails*), which enabled them to relieve their estates from incumbrances. He adds, that this tends also to the extinction of the nobility, as the alienation of their lands, which must almost inevitably be the consequence, will deprive them of the only importance that remains to them after their feudal rights are gone, and throws them into a state of dependence upon the court. In this we agree with him; a nobility, without a certain power of entailing real property, appears to us worse than an absurdity in politics. Perhaps in England this power is, upon the whole, as well regulated as can be reasonably expected; perpetuities are avoided, while an opportunity is generally enjoyed of preventing improvident alienations, and guarding against all hazards for a limited time. In Scotland, there is by far too unrestrained a power of tying up property; and the late fluctuations of the law upon the subject have, we fear, increased rather than lessened the evil.

In a work upon the kingdom of Naples, we naturally look for information respecting the *Carbonari*, of which so much has been said, and so little seems accurately known. The following are the principal remarks of our author upon this subject; and they are of importance, not so much with a view to the sect itself, as from the light they throw upon the great change of property and of popular feeling, in which both the *Carbonari*, and all other reformers, must, of necessity, both have their origin, and seek for their support.

‘That the efforts of this society have been directed to the attainment of a representative system of government, can no more be denied than that they have been eminently successful; but that, in so doing, they assumed an exclusive agency in the affairs of state, and must therefore be regarded in the light of a faction, is not admissible. It should be observed, that if the *Carbonari* do not constitute

the positive numerical majority of the Neapolitan nation, which is a matter of some doubt, they include in their ranks that portion of the population which, from their acquirements, property, habits, and relative situation in the body politic of the country, must ever give a decided preponderance to whatever part they assume. The state of intellectual information in this kingdom, however it may be underrated by inhabitants of regions more advanced in that respect, is, nevertheless, much more respectable than those individuals are aware of; and, however inferior it may be to that of the northern nations, it may safely be asserted, that it *cannot* retrograde from the point it has reached, even if it be for a while checked in its future progress.

‘ The classes wherein the sect had made the least advancement are the higher divisions of nobility, and the most abject among the populace. The former, in consequence of the encroachments upon their possessions, and almost abolition of their ancient privileges, while they are debarred from the means of exercising any political influence over the remainder of the population, are alike unable to afford any support to the crown; and the others must, until the country is entirely regenerated, continue to vegetate almost as a caste, in a state to which they are habituated from their infancy, and which, after all, is neither painful or insupportable. The description of individuals filling up the vast chasm between these two extremes, must be admitted to rank as a body whose employments, labours, and local knowledge, contribute most largely to the welfare of the community; and of these I should not hesitate to affirm that the great portion are Carbonari.

‘ There is a class of middlemen in these realms, who have acquired an individual importance in the country at large, originating in the vicissitudes which have been so prejudicial to it in general; they consist in agents or stewards of many of the ancient families, who, too proud or too careless to look into the management of estates they never visited, consigned them entirely to the care of subordinate individuals, whose habits of activity and practical knowledge of rural economy, have enabled them to profit by all the losses or temporary embarrassments of their superiors, and many of whom are now in the actual possession of the domains which they once superintended. It would be as invidious as illiberal to generalize the imputations to which this description of men have been subjected; especially as instances of the same kind are by no means confined to the southern portion of Europe. Here, however, they are infinitely more common, in consequence of the changes in the government, laws, and institutions during the last twenty-five years; and, in a country of which the principal resources may be considered as almost purely agricultural, these persons, united to the petty landed proprietors, may undoubtedly be regarded as forming the most important portion of the nation; they are usually denominated *galantuomini*, or gentlemen, as a dignified improvement upon *possidenti*, or

proprietors, an appellation perhaps more applicable in its general sense. From this class, which might again be subdivided into several inferior portions, all the subaltern offices in the provinces must necessarily be supplied; and in this case, the decrees fulminated against any secret institution could have no effect but that of multiplying its adherents. Government might in vain choose, from its own particular friends, individuals of tried fidelity to fill the highest posts of trust and dignity; but its efforts towards the destruction of the sect must always be rendered abortive as long as the selection of inferior agents is not conducted with similar precautions; and that such precautions are impossible must be obvious. The vital necessity of concealment imposed by persecution upon a Carbonaro, would add more than ordinary stimulus to the rigid observance of all those official duties likely to secure favour and confidence from his principal; but the secret patronage and encouragement of the individuals of his own sect would undoubtedly be extended with a fervour proportionate to the zeal and integrity displayed in the exercise of his public functions. From this circumstance it must frequently have happened, that all the local authority of a country town became vested in the hands of Carbonari, who might discharge the complex and intricate duties of their respective stations with exactness and even fidelity towards the state, but at the same time continue the occult pursuit of their ultimate plans, and disseminate the tenets of their association with redoubled activity and effect. A majority of Carbonari in the *Decurionato*, or civic assembly of any village, would insure the election of a Syndic of their own body, who would, in his turn, be enabled to bias the choice of his successor, as well as that of the different *Gabellieri*, or excise officers, and other subordinate charges.' pp. 383—386.

Our author adds, that the Carbonari principles are in no classes more universally diffused, or deeply rooted, than among the provincial militia. Now, these are all landowners; they are the yeomanry of the country, and must have a considerable qualification in land to enable them to serve; they must pay ten ducats a year to the land-tax. If recent experience did not seem to show that governments, like individuals, may be stricken with incurable blindness, we should not hesitate in pronouncing it to be impossible that the interests, or even the inclinations, of such a class, could be very long despised by any dynasty not bent upon its own destruction.

It would have added greatly to the value of Mr Craven's book, if his classical allusions had been accompanied with references, and in many places with quotations. The defect may be supplied in another edition; and, as hardly a step of his route was off classic ground, though the trouble of making this addition may be considerable, yet he appears to have the materials in his notes; and the work would gain incalculably by it.

ART. IX. *The Elements of the Art of Packing, as applied to Special Juries, particularly in Cases of Label Law.* By JEREMY BENTHAM Esq., Benchet of Lincoln's Inn. 8vo. pp. 270. London, 1821.

WE must fairly confess that we have no intention to say any thing of Mr Bentham or his book on the present occasion; and that we have borrowed the title of it merely as a peg on which to hang a discussion of a more local and domestic nature. We shall therefore take leave of the ingenious publication with which we have used this liberty, by merely observing, that in what we have been able to read of it, we have met with a good deal that we did not approve, and a great deal that we could not understand;—and that we are happy to learn, that the evils of which it chiefly complains have been corrected in recent practice. We proceed now to matters which do not concern Mr Bentham.

There is nothing in which the people of this country have a deeper or more immediate interest, than in the administration of Criminal Law; and therefore they ought never to lose sight of the causes which make, or which keep it pure. There are some who think, that the principal of these causes is the unimpeachable integrity of our Judges; and of course these persons must hold, consistently with this opinion, that the larger the Discretion is with which Judges are invested, the judicial system must be the better. This, however, is a very dangerous error; and one that is as repugnant to the genius of the Constitution, as it is to sound reason. For though we have the highest admiration of the great qualities that have become familiar to us in the British judicial character, and feel prouder of the scheme of justice which the integrity and learning of those who preside in our Courts has helped to mature, than of any of our other national achievements,—holding the splendour even of our warriors as eclipsed by the more civilized glory of our Judges,—still we think it perfectly plain, that this excellence, instead of being produced, has a direct tendency to be destroyed, by that very Discretion with which the injudicious think it so worthy to be intrusted.

But what is it that forms and preserves the peculiar integrity of a Judge? We need say nothing of their long previous training—of their removal from the usual scenes of corruption—of the infamy which would attend a detected violation of duty—or of the honourable fame which rewards the proper discharge of it;—because these incentives to virtue are obvious and universal. But the more special causes which have operated in Great

Britain in producing our unrivalled administration of penal justice, are these. 1. The precision to which the leading principles and subordinate rules of Criminal Law have been reduced. Much certainly is, and always must be, wanting to render this precision complete. But infinitely more has been done in this way here than in any other country, and quite enough to have produced this result,—that a Judge can scarcely ever act except by the side of a known standard by which his conduct may be measured. It is obvious that this palpable check is removed every time he can truly say no rule has been given to him, except his own will. 2. The separation of the judicial from every other office. In some countries the Judge is not only the accuser, but the executioner; and the direct interference of the Court may be seen in every step, from the first suspicion against the criminal, down to the infliction of his sentence. With us the theory is, that the Courts are not only separated from the executive and legislative powers, but that, even within the judicial sphere, they are saved from all ministerial functions. A Judge ought to have nothing to do, but to sit like an Oracle and propound the law. 3. The constant presence of a Jury. The various effects of this upon British jurisprudence, deserves a more minute investigation than it has yet met with: But at present we have only to observe, that the mere presence of the men would be useless, and that the benefit of the institution arises solely from their *rights* and their *duties*, and the *independence* with which these are discharged; and hence, in order to prevent the debasement which might arise from their owing the honour of the station they are called to, to the good opinion of the Court, the correct principle is, that their connexion with the legal part of the institution shall not commence till some separate power shall have placed them in their box. 4. The publicity of the proceedings; which subjects every person engaged in Courts of Justice, but more particularly those who preside, to the immediate and irresistible check which arises out of the combined love of reputation, and the consciousness of the chance of correction. It is upon this principle, that it is not enough that the *results* of the proceedings be made known. The Judge is expected to furnish the means of appreciating his own conduct, by openly stating a reason for every thing that he does. It is not sufficient that he says he has, or that he really has, a reason. He must give it forth—and this, too, for the very purpose of its being questioned by an active and independent Bar. This, while it is salutary as a check, is also the legitimate source of his own true respectability. There was once a time in which one of the Supreme Criminal Courts of Scotland used to go through the ceremony of hearing the parties, after which

the Judges retired into an inner apartment with the Lord Advocate, who was always on one side, and then, after what was called deliberation, the accused was called in and told his doom. It is needless to add, that this tribunal came at last to be a mere instrument of tyranny and murder. Such is the danger to which all Courts are exposed, where there are steps of vital importance taken by the Judges, either from no reason at all, or from reasons that are not openly avowed, or, though avowed, are protected from discussion.

Conceiving these to be the true elements of judicial excellence, it was with the greatest satisfaction that we heard of a Bill having been introduced, during the last Session of Parliament, by Mr Kennedy, for relieving the Judges in the Criminal Courts of Scotland from one of the most painful duties they are called upon to perform;—a duty which no other Judges, so far as we know, within the sphere of the British Law, are asked to discharge; and which indeed is so invidious, that, if it were now attempted to be forced upon them for the first time, we are convinced that many of them, especially of the higher order, would rather resign their situations than undertake it. We allude to the practice which prevails in this part of the country, of requiring every Judge who tries a criminal case by Jury, to SELECT THE INDIVIDUALS OF WHOM THE JURY SHALL CONSIST! Many of our readers will start at the very mention of such a custom. Nevertheless a practice, of which we cannot discover the origin, but which was introduced long before the blessings of the British Constitution were opened to us, still continues; and at this day *the Judge names the Jury*. The bill in question proposes to change this,—and to substitute a ballot, with a limited right of challenge to both parties; a remedy for which there are many precedents.

This scheme promises to remove so great a blot in our criminal system, and to accomplish this by an alteration which is at once so simple, and so congenial with the spirit of the Constitution, that it was to be anticipated (as we still think has in a great degree actually happened) that no respectable opposition would be made to it. It might have been predicted, in particular, that the Lord Advocate, whose office naturally gives weight to his opinions on such subjects, and who has, on other occasions, recommended changes in our law infinitely more violent than those which this measure contemplates, would have been anxious to seize an opportunity of transmitting his name to posterity, in connexion with one of the greatest modern improvements in our penal procedure. In this, however, the country has been disappointed; and we lament, for his own sake, that this learned Person has not merely expressed his own opinion against the

bill, which he was perfectly entitled to do, but has given those a signal to rise against it, to whom such a signal was never yet given in vain,—and has tempted the Freeholders of Scotland to commit themselves by a more than usually conspicuous exhibition of their sympathy with the possessors of power. If our object were merely to refute or to convince those who voted with the majorities at our late county meetings, it would certainly not be worth the while of any man of sense to waste his leisure upon such a task: For their number is so insignificant, and our Scotch counties, from the unfortunate system on which the elective franchise among us depends, have generally conducted themselves in such a manner upon public subjects, that fortunately there is no doubt in any quarter as to the weight that is due to their sentiments, or rather to their resolutions. Such meetings contain, no doubt, many individuals of the highest respectability; but, in their corporate capacity, we doubt if there be one of the many political and judicial improvements that have been introduced in the course of the last century, and which all men are now united in admiring, that they did not at first discountenance or resist. And if it were to be seriously proposed, even now, to abolish Trial by Jury altogether in political cases, and the Lord Advocate of the day were to intimate his wishes as plainly as has been lately done, we are deliberately of opinion, that resolutions would be passed in a majority of the counties, in support of that scheme, with the same forms, and upon the same considerations, with those that were lately called into operation. But though the conversion of these persons may be somewhat hopeless, and not at all important, it is right to correct the misapprehensions which may arise from the mere fact of their opposition, and to give those from whom the subject is likely to receive a candid consideration, the means of answering their objections. We must confess, too, that we have some little compassion for these persons themselves; because it is evident, from their resolutions, that, on this occasion, many of them were misled, and knew nothing at all of the subject about which they voted; and as the discussion of the Bill has been adjourned to so distant a period that there is time for the late misrepresentations and prejudices to die away, we are not without hopes that, in a matter where he who is seemingly most secure to-day, may be personally concerned to-morrow, common sense may ultimately be triumphant, even in a meeting of Scottish Freeholders.

The first thing to be done, in order to open their eyes, or those of any body else, upon this matter, is to explain distinctly *what the present practice is*; and the exact nature and extent of the *alteration* that is proposed.

The principal criminal business of Scotland, where a Jury is employed, is conducted before the Court of Justiciary, which consists of six Judges, and sits either at Edinburgh, or upon the Circuits. The Judge-Admiral, and the Sheriffs of the different counties, have also criminal jurisdiction; but there is not one case of this description before the Admiralty in ten or twenty years: and the Sheriffs only take cognizance of petty offences, and do not often try by Jury. So that, practically speaking, the whole important business of the country is done in the Court of Justiciary; which is the only supreme criminal court in the kingdom, and acts always by Jury. This Court can meet at all times at Edinburgh, except when the Judges are absent upon their Circuits. These Circuits occur twice a year; once in spring, and once in autumn. There are three of them; each of which meets at three towns: So that there are just *nine places* where Circuit Courts are held, and this twice in each year. Every Jury consists of *fifteen* persons, who are not required to be unanimous. A verdict is good though it be pronounced by a bare majority; and it happens every day, that persons are convicted and executed where eight of the Jury think him guilty, though the remaining seven should think him entirely innocent.

The first preparation for having a Jury, is to collect the names of all those who are qualified to serve. This is done by the Sheriffs of the different counties, aided by the Magistrates of the burghs. This, we understand, is done, or supposed to be done, annually; and it is necessarily the basis of all that afterwards takes place. It has been very often stated, that this first part of the system is defective, in so far as there is no *security* that the Sheriffs take up the names of the whole persons who are qualified; or that, in making up the lists for particular trials, they take them in rotation, or by any other impartial rule, or that they afterwards adhere to any arrangement of the names that is, once made. We have no occasion to consider these things at present, because the subject we are discussing does not arise till a future stage of the proceeding; but we cannot help observing, that, so far as we know, the complaint is well founded; and that, if it really be so, not a moment ought to be lost in removing the cause of it. There can be no doubt that the Court has power to correct or punish any specific act of abuse that is regularly proved, and that it would willingly do so. But this is not enough: Because, until a positive rule shall have been laid down, and it is put into the power of every person to see at once whether it has been observed or not, the grossest packing may have prevailed, and yet be almost secure from detection, or at least from such clear and instant detection as to avoid the evil, by preventing the trial from going

on. Where would be the difficulty of first arranging the order in which the names were to stand on the Sheriff's annual list, by ballot, and of then letting the list be open to the inspection of the parties, or of all the world? As the business is at present conducted, we know of no certain test by which partiality in the inferior officers of justice may be at once detected, or the imputation of it put down. But the proper subject of our present observations only begins after the names of the qualified persons are supposed to have been got, and fifteen of them are about to be set upon a particular trial.

If the trial is to take place at Edinburgh, the form of proceeding is as follows. Each of the three adjoining counties sends annually to the Justiciary-office, a roll of the persons who are qualified within each shire. The towns of Edinburgh and of Leith do the same. The business of this office is done by the clerk of the Court, an officer who receives his situation from the head of the Court, but who, after he gets it, is not liable to be removed by that Judge, but holds his place *ad vitam aut culpam*. When there is to be a trial, the clerk takes forty-five names from the lists thus sent every year to his office. In order to equalize the duty, a certain fixed number of these names is taken from each of the three counties, and from Edinburgh and Leith, in proportion to their supposed population. The rule is, that these shall be taken by regular rotation, and we have no doubt that this rule is observed; because any unnecessary deviation from it could be at once detected by an inspection of the lists—which is exactly what ought to be done as to that part of the business which depends upon the Sheriffs. The forty-five persons thus called upon in rotation, are summoned to appear in Court on the day of trial; and, when they do so, *the presiding Judge, at his own discretion, specifies which fifteen of them are to form the Jury* for the trial of the case.

This is the system in trials at Edinburgh. But at the Circuits, it is marked by an additional circumstance of great importance. At Edinburgh, the Judge only names the fifteen; but at the Circuits, *he names the forty-five too*. Each of the counties (which are commonly three or four) attached to the circuit town, sends a list of forty-five persons to the Justiciary-office, a few weeks before the assize is to meet; so that the clerk has in his possession three or four separate lists of forty-five who are liable to serve at each place. But there are never more than forty-five in all actually summoned to attend. Now, how are these individuals chosen out of the total lists? *They are selected by the Judge who is to go the Circuit*. The clerk takes his sets of lists, which do not merely contain names, but desig-

nations or additions quite sufficient to let each individual be distinguished and known, to that Judge, who specifies what forty-five individuals are to be summoned; and it is out of the persons thus selected that his Lordship afterwards chuses the fifteen on the day of trial. So that at Edinburgh the list undergoes a single, and at the Circuits a *double*, judicial filtration.

It is proper, however, to explain more particularly what is meant when it is said that the Judge *appoints* the Jury. There is no peremptory challenge allowed in criminal cases by the law of Scotland. Of course we except Treason, which is now under the law of England. The Scotch law allows certain objections *for cause* shown; but these are very limited indeed. Leaving out of view mere technical points, such as misnomers, &c. our most accurate writer on the subject * only enumerates, as admissible objections of a more general kind—recorded convictions of offences inferring infamy—special malice—insanity—deafness—dumbness—minority; and, when it is a private prosecution, (which however is very rare), near relationship to the accuser. It is obvious that there can scarcely ever be occasion to state such objections; for direct personal malice is rare, and seldom proveable; and no Sheriff can be so careless as to return minors, convicts, madmen, the deaf or the dumb, as persons qualified to act. Accordingly, a challenge for cause is scarcely ever heard of in practice; for no account whatever is taken of those slighter moral circumstances, which, though they could not be stated as positive *legal* grounds of rejection, may yet be the best of all real objections to a jurymen. Known or suspected partiality—violence of temper—impatience—notorious stupidity—personal dislike—gross prejudice—family feud—unprincipled character—prepossession about the case—political rancour;—all these, and a thousand other nameless but powerful considerations in the composition of a Jury, are disregarded; and to such an extent, that they cannot even be alluded to. If any objection were to be taken on these accounts, the answer would be, that the men were neither mad, minors, deaf, dumb, nor actuated by such direct personal malice, as could be established by legal evidence upon the spot. There have been cases in which jurymen, perceiving that the law was not sufficiently comprehensive, and did not enable the parties to exclude prejudice as a matter of right, have stated objections to themselves, founded on their being conscious that they were liable to exception. This was done in the case of Muir, who was tried for sedition at Edinburgh in 1793, where an officer in the navy being named

* Mr Hume, in his Commentaries on the Criminal Law of Scotland.

by the Judge, stated of his own accord †—‘ That he understood ‘ Mr Muir was accused of a crime against Government; and ‘ that he did not consider it as proper that Mr Muir should be ‘ tried by a Jury composed of servants of Government; and ‘ that *his mind felt scrupulous*, and laboured under much anxiety, and he begged leave to decline being a Jurymen.’ Nevertheless he was put upon the Jury. ‘ Captain Inglis was informed by the Court, that there was no impropriety in his being ‘ a Jurymen, although belonging to the service of Government.’

Now, with the exception of these few and rare grounds of absolute legal challenge, the presiding Judge has an absolute and uncontrollable power in naming the Jury. By which we mean, that what he does is this. The indictment contains the list of the forty-five persons who have been summoned to attend the trial. This list does not merely contain names. It contains additions, specifying both the line of life, and the place of residence of each individual; so that it is perfectly easy for the Court to know exactly who and what each man is, and, in a great measure, what the prevailing characters and principles are of the whole. Now the Judge takes this list in his hand, and he mentions fifteen persons, one by one, to the clerk, who takes down their names; and these persons, if present, and not set aside for cause, form the Jury. There is no reason given for any of the nominations; and none could be asked without a contempt. The first fifteen, at the beginning of the list, may be chosen—or the last fifteen at the end of it—or the central squadron—or all those with particular names—or of particular vocations—or those who have given satisfaction upon former occasions—or those who were never known to have been upon a trial before—or who are supposed to be fitted for the case;—in short, there is no rule whatever, direct or indirect, expressed or understood, according to which the selection must be made. The whole thing depends upon the discretion of the Judge; and no explanation is given, or can be asked, *even by the other Judges who are present*, of the grounds on which this discretion is exercised. So that, of whatever materials a fragment of the general list is composed; whatever peculiarity there is in the habits, lines of life, or principles, of those whose names it contains; whatever character, whether of intellect or of virtue, belongs to fifteen men on that list,—that essence it is always in the power of the Judge to express out of it. We believe that the *principle* is, that the Judge shall, honourably and impartially, name the persons who, he thinks, must, from their

† Howell's State Trials; Vol. XXIII. p. 133.

intelligence and integrity, make the best jurymen; and we wish it to be held, in this discussion, that this principle is most faithfully observed. We shall explain, immediately, why we think it one of the very worst features of the system. In the meantime, the general fact may be stated as certain, that the presiding Judge is absolutely *omnipotent* in the appointment of the fifteen jurymen. It is usual to say that he *names* them; by which, however, it is meant that he *selects* them. Our great Institutional writer, Erskine, has hit upon the only appropriate expression for describing the operation, by saying that he *picks* them. 'A jury, or assize,' (says he *), 'consists of fifteen sworn men, PICKED OUT BY THE COURT, from a greater number.'

This is the practice which it is proposed to change: And, as a good deal of misrepresentation has been used on the subject, we beg our readers to observe the precise nature of the projected alteration. The bill does *not* introduce any novelty with respect to the mode of taking up the names, nor of making up the lists by the Sheriffs; it does *not* interfere with the power of the Clerk of the Justiciary in arranging or giving out portions of forty-five men for each trial; it does *not* even control the custom of letting the Circuit Judges choose the forty-five who are to be summoned out of all the jurors in the districts. *It touches no part of the system whatever*, except that part by which the presiding Judge appoints the fifteen who are actually to try each specific case. Many people are of opinion, that its being thus restricted is a great defect; and that those other practices, of which it takes no notice, are as much deserving of Legislative correction as the detached one to which it is confined. This may be true. But we rather admire the cautious wisdom with which the plan has been conceived; and perceive, in the singleness, simplicity, importance, and obviousness of the improvement to which the honourable Mover has limited his attention, a proof that he is actuated by a desire to accomplish some attainable good, instead of yielding to the usual ambition of introducing changes that are comprehensive and involved, and, for that very reason, are almost certainly impracticable.

Now, nobody to whom the selection of the fifteen Jurors by the Court appeared an evil, could be at much loss to discover the proper remedy. For, in the *first* place, the Law of England (as we understand it, though we speak with diffidence on the subject) has declared, that, let Juries be chosen as they may in various classes of cases, they shall at least never be chosen by the Judge. In the *second* place, it is an universal and sa-

* Book IV. tit. 4. § 92.

cred principle of the law of that country, that they shall be chosen *indifferently*, that is, by some arrangement or other, which prevents their appointment from depending on the *mere will of any individual whatever*. Whether this is accomplished by taking the first that answer to their names, and excluding supposed partiality or defect by a liberal allowance of challenges, or in any other way, is perfectly immaterial. The *indifference* does not resolve itself into the caprice of one man. The thing must either be the result of pure chance, or of an adjustment made out by the mutual competition of naming and of challenging by the parties. Nor does it signify that complaints are made of the power which the forms, or the abuse of the forms, of the law of England, gives to the inferior offices of justice, or to the jurors, of indirectly securing an assize composed of any body they chuse. The *principle* is, that the Jury shall be chosen without the possibility of partiality; and the arrangements by which this object is endeavoured to be attained, turn all upon this, that the nomination of each juror shall be so *accidental*, that nobody has power to secure either a whole jury, or any part of it. In the *third* place, in the institution of the existing Scots Jury Court for the trial of Civil Causes (being by far the most valuable judicial improvement in this country during the last century), this principle was not only recognised, but its full operation was secured, by its being declared at once, in direct terms, that every Jury should be chosen by Ballot; a mode of proceeding which goes, as far as mortal cunning can go, to exclude every thing like partiality, and which has been now acted upon for several years with the most perfect success, and without giving rise to any practical inconvenience whatever.

The Bill, therefore, first introduces a *ballot*. But, wherever jurymen are chosen in this way, the *peremptory challenge* arises as a necessary consequence; because, in spite of all previous caution, it must frequently happen that the names of persons are drawn, who, though not liable to be set aside for cause, would nevertheless be, practically, very bad jurors. The lottery of the ballot, and the discretion of the Judge, are, in this respect, on precisely the same footing; the occasional appointment of an improper jurymen being the inevitable result of both. There is this mighty difference between them, however, that, where the Judge selects, his nomination cannot be peremptorily challenged without lowering the dignity of the Court, by exposing its head to be checked in the discharge of a duty, which, as it resolves into mere discretion, it is always indelicate to question; whereas no such feeling can be applied to the adjudications of the ballot. The Bill, therefore, proposes to give a per-

emptory challenge, to an extent which is not yet fixed, but we believe is designed to be very limited, both to the accuser and the accused. But beyond these two points, namely, the ballot and the challenge, *it does not advance a single step.* It consists merely of three short clauses, two of which provide for these two objects, and the third preserves the form of trial, in cases of Treason, untouched. Nay, so cautiously has the honourable Mover proceeded, that he has not innovated so far as even to invent the phraseology in which this very simple measure is described; for the two enacting clauses seem to be borrowed, almost word for word, from the corresponding Sections of the Jury Court Act.

It is quite certain, and has been publicly explained, that the Bill is meant to apply to Circuits as well as to the Court at Edinburgh. But, as it now stands, it would only apply to the latter. We think it right to mention this want of the proper technical term to denote a Circuit; because we see that some of the counties, while they condemn the whole measure, derive an argument against it from its being *only* allowed to operate in Edinburgh.

That this union of the ballot and the peremptory challenge, is the natural and perfect cure for the evil, if any evil worth curing exist, is indisputable. It is a remedy which has all the recommendations that any corrective measure can possess. It is simple,—not new,—agrecable to the spirit of our public law,—authorized not merely by the analogy, but by the direct experience, of Courts of Justice,—and perfectly adequate for the specific defect, without implying any further innovation. The only question therefore is, If there be any defect in the present system, or, at least, such a defect as ought to be removed? The very putting of such a question, is a striking example of the influence of mere custom in blinding our judgments; for, if it were now proposed to introduce the existing practice for the first time, there could not possibly be but one universal sentiment of surprise and alarm. But Time has not come here as usual ‘with healing under his wings;’ for, though he may have prevented those distant spectators, who care nothing about the matter, from at first perceiving the peculiarity, it is this very circumstance which, by removing one of the checks against abuse, has aggravated the evil to those who are immediately or personally concerned. If custom could, in this instance as in many others, reconcile us to the grievance by simply making it habitual, there might be no great objection perhaps to our waiting patiently till another century or two had added their opiates to those that their predecessors have administered. But there are some things which do not depend upon positive institution, but on

the unchangeable principles of justice and of common sense;—and over the absurdities of these, Time itself has no power. Jury Trial, being the adaptation of a certain instrument to a particular purpose, is one of these; and its condition is not to be judged of, by referring merely to the fact that it has long existed in a given form, but by considering its fitness as a mean for the attainment of a specific end. In this view, the circumstance of the Jury being chosen by the Judge is not only an evil, but it is one that must adhere to the system as long as the practice lasts; and must be found to be the more intolerable, exactly in proportion as its real operation is practically felt.

In discussing this subject, there are two considerations which appear to us to be quite decisive of themselves, and to supersede all further investigation, and yet which we are nevertheless willing to leave entirely out of view. These are, the impossibility of reconciling the present practice with the constitutional theory of Trial by Jury: and the possibility of corruption on the part of the Judge. If it be supposed that the Judge is partial or corrupt, it is plain that this practice just gives up any party, whether prisoner or prosecutor, whom he chuses to destroy, as a victim utterly incapable of resistance. And even where their purity is unquestionable, it seems to us to be equally clear, that the Judge cannot be allowed to name the Jury, without directly breaking down the constitutional line by which these two component parts of our Courts of Justice are separated, and which has been the great theme of admiration with all those who have expounded our political institutions. This one view is to us perfectly satisfactory and conclusive; and must be so to all those who understand or venerate the great principles on which the different departments of our public system are adjusted. It is for this very reason that we do not think it necessary to say more about it. It is too obvious to require explanation, and too indisputable to admit of attack. The possible corruption of the Judge stands in the same situation; and moreover, although it be the grossest folly ever to imagine that our rights are sufficiently secure, merely because they depend on the virtue of individuals; yet we willingly avoid doing more than alluding to cases, which could not be fully investigated, without making suppositions which the long established integrity of our Courts might seem to render unnecessary or objectionable.

But, leaving these simple and extreme cases out of view (though by no means renouncing them as immaterial to this Bill,—in favour of which, we repeat, that we think them conclusive), let us inquire if there be no other objections, of a different kind, to that singular mode of constituting a Jury, which our country-

men alone, out of all the people upon earth who have tried the Jury system, have adopted. For this purpose, let us observe a few of the more prominent and necessary effects of our usage upon the *Parties*, the *Jurymen*, the *Judges*, and the general character of our *Criminal Jurisprudence*.

Nothing is so indispensable for the security of private rights, or the general tranquillity of the State, as that *Parties* should not only have, but should have good reason for having, confidence in the constitution and proceedings of Courts of Law. Now, if any one wishes to discover the principle on which they come to have confidence in a Jury, or, in other words, in the intellectual qualities and propensities of those who compose it, let him only observe what it is that parties do with respect to *witnesses*, or *arbitrators*, or any other persons, on whose honesty and sagacity they know that their interests must ultimately depend. Let every idea of fraud, or conspiracy, or animosity, be excluded. Nevertheless, observe the anxiety, the zeal, the intelligence, with which they sift every circumstance in the history, situation, or character of these persons;—the unexpected variety of irresistible reasons against trusting them which this scrutiny discloses, even where the general reputation of every one of them is unimpeachable;—and the great comparative security into which the parties never fail to settle, after this salutary investigation has been closed, and has either revealed to them the exact source and direction of every injurious prejudice, or has had the more satisfactory result of convincing them that there exists no prejudice at all. Nobody could seriously propose that all *this* preparation should be superseded or prohibited, and that people, whose fortunes were at stake, should *allow* their claims to be decided, neither by high Judges, nor by persons taken from the public accidentally, but by a limited number of individuals chosen at the caprice of a third party, over whom they had no control. No such suggestion could be made, with reference even to the simplest and least suspected combination of circumstances. But if it be supposed that the matter in dispute has made a noise in the neighbourhood, or that there is likely to be cunning or keenness on either side, or that the contest is between an unprotected or unpopular man and one of power and influence;—how is it that all the tricks, prepossessions, or advantages arising out of this state of things, is counteracted and defeated? Is it not just by increased vigilance, and by trying to obtain a more thorough insight than ever, not merely into all the details of the case, but into the very minds of all those on whom its discussion is to depend; and by tracing all the filaments of all the prejudices or interests by which these minds are likely to be affected? This may seem

an indirect and elaborate process; and so, in some views, it is. But it is by these means, and by these alone, that the practical operations of justice, in so far as they turn upon facts to be stated or judged of by human candour or observation, are conducted; and to attempt to ascertain facts, without those preparatory checks by which alone evidence can be judged of, is equivalent to an attempt to weigh without having first procured accurate scales. Nor let it be imagined that the absence or the presence of those circumstances which affect the scales, can ever be detected by any power, except by the activity and the self-love of the parties who are directly interested. To suppose, above all, that a Court, which is removed by its own nature from all immediate and personal knowledge of these details, can ever supply that vigilance and information which the parties can bring into play, or that parties ought to be satisfied with what the supposed fairness of a Court can give them in this respect, is to imagine human nature to be changed. Accordingly, when the law of Scotland directs that an accurate list of witnesses and of jurors shall be given to each prisoner fifteen days before his trial, it surely does not do so for the purpose of informing the Judge on whom the indictment that contains these lists is not served, but in order to enable and to tempt the accused to pry into every circumstance in the situation or character either of those who are to give, or of those who are to receive, the evidence against him. For if parties be interested in detecting every possible circumstance which can influence the credit due to a witness, they have an interest of precisely the same nature, though rather stronger in point of force, to discover every thing that can affect the leaning of a juryman; and the injustice, or rather absurdity, of forcing them to trial without allowing them to investigate or arm themselves against the one cause of error, is just as gross as not allowing them to use any precautions of their own against the other.

But it is obvious that this investigation, though prompted by the just and natural principle of self-preservation, is all superseded, and the confidence in Courts to which it gives rise defeated, where the parties are obliged to sit silent, while their jury is named by a *discretion* (if indeed it can be called so), which acts without knowledge and without explanation. The effect of this may easily be perceived, by taking a simple case, which we firmly believe occurs every day, and which is as favourable for the present system as can be conceived. Take the case of an offence, which has excited no great interest, and of course has given rise to little discussion and to no prejudices; let all idea of trick in the previous preparation of the

Jury be excluded; and let the integrity of the Judge be, as usual, above suspicion. There are as few causes of error here as can ever occur; and to the world, in general it may appear, that every thing is planned with the most dignified wisdom and fairness. But, alas! the poor prisoner may not only think, (which however is bad enough), but he may have the most invincible reasons for thinking, that there is one part of the proceedings fraught with unobserved, perhaps, but overpowering injustice. Every thing else may be quite right; but the first man who is called from the crowd to take his seat in the box, has been his personal enemy for years, though no special malice can be legally proved; the next, though not a fit subject for an inquest of lunacy, is so notoriously a blockhead, that he is never trusted in private life; the third thinks the administration of justice in this country so excellent, that he has laid it down as a general rule, that the legal principle about the presumption of innocence is absurd, and that every pannel is to be held guilty from the mere fact of his being accused; the fourth is so lazy or profligate, that he holds himself to be no judge of evidence, and therefore devolves his understanding and his conscience on the Court; the fifth, though no enemy of the prisoner in particular, hates and condemns men by classes, and is clear for extirpating and putting down all the sort of people with whom it is alleged that the pannel is connected;—and so the nomination goes on, with perfect external propriety, till a Jury of fifteen is got, every one of whom have most respectable designations, and look unexceptionably outside; but the very sound of many of whose names was a stab to the heart of the prisoner—whose sufferings are only made the keener by his being conscious of innocence, and knowing that his objections are such as no fair man could resist, if they could only be stated. Yet, because the Judge is honest, and because these jurors are neither mad, convicted, minors, deaf, dumb, nor specially malignant against him personally, he is obliged to sit still and see a proceeding going on, which is to subject his life to persons to whom no impartial friend, and no fair foe, would think that he ought voluntarily to submit his civil interest to the extent of sixpence!

But in any right discussion of this subject, it is necessary to be a little more jealous, and to consider what must be his situation, if (without supposing the existence of any thing like corruption) there be, as in the course of human nature, even in its purest condition, there sometimes will be, a tendency to a *bias* against him on the part of the Judge or of the Jury. On such an occasion, it may be literally held that he cannot be tried at all. He may be convicted or acquitted, as the prejudice leans;

but tried he cannot be; for every principle of fair trial is necessarily excluded where any one human being, under the appearance of exercising his discretion, has it in his power to avail himself of any existing prejudices, in order to secure an adverse Jury. To say that this cannot be supposed to happen often in this country, or that, if it did happen, it would equally corrupt all the other parts of judicial business, is saying nothing at all. We admit that it can occur rarely; but the misfortune is, that when it does happen, the abuse can never be detected; and, in the mean time, its mischief is irremediable. In the discharge of the other judicial duties, parties have always this great security, that reasons for every thing that affects them are given and can be discussed; whereas the motives of a Judge, in selecting particular men to serve upon a Jury, are buried impenetrably in his own breast; and when he errs, the moment at which alone, if at all, redress is attainable, passes irrecoverably at the very instant that his prejudices are indulged.

But let us suppose the Judge to be perfectly pure; and, moreover, that his experience enables him to resist every indirect prepossession. Still there are situations, and these too in the very cases for which Jury Trial is chiefly valuable, in which both parties, but particularly the accused, are exposed to prejudices and to influence from a different quarter. The matter at issue, either from the question it involves, or the parties concerned, may have made a noise in the neighbourhood, or may have been keenly canvassed all over the country. It may, for example, be a political case, where the contest is in appearance between the Crown and a subject, but really, to a certain degree, between the party in power and their opponents. No such affair can arise without creating marked divisions and expressions of opinion, and in some measure pledging most people to a particular side; and it is on this principle that the law prescribes a peculiarly cautious form of trial for cases of Treason, where this source of partiality is supposed to be the most copious. If it be supposed that the Judges, either from their having originally belonged to one of the parties themselves, or from being ambitious of recommending themselves still farther to the Crown, or from their sincerely believing, as many honest men do, that the Crown must always be right, are disposed to take advantage of the prejudice, the trial is made a mere mockery. But supposing every thing quite sound in this quarter,—is it not grossly unfair that the pretensions, either of the accuser or of the accused, should be judged of by a Jury entirely or chiefly composed of the wild and notorious adversaries of every thing bordering upon the case which one of them has to main-

tain? Was it right formerly to see Cavaliers professing to judge candidly of Roundheads, or Roundheads of Cavaliers? or did no evils happen in Ireland, from setting Protestants as Jurymen over Catholics, or in France, from setting the Catholic Judges over Protestants? What chance would a moderate Reformer now have with an assize of red-hot Radicals? or is it decent to behold a Jury of inflamed, bigotted, enthusiastic, conscientious Tories, dealing with a poor, run-down, detected Whig? Yet what remedy there is for this, so long as every thing depends on the nod of the Judge, we really do not know. If his Lordship be corrupt, it is done on purpose; if he be weak, it arises from prejudice; and though he be both wise and honest, it must happen every moment from ignorance; and, whatever the cause be, it is impossible to say a word in order to ward off the mischief.

It is quite true that the ballot may also fall upon objectionable jurors. But then it does not do so systematically or incorrigibly; and when this misfortune does occur, it is always in the power of the parties to repair it by a challenge. The chance is in favour of an unexceptionable ballot, because there are generally more good jurymen than bad ones on the list; and therefore, as is actually found in civil cases, though there may be some, the presumption is that there will not be many, whom the parties dislike. But the chance is by no means the same when a human being selects. There is in this case either no chance at all, as the result depends on certain reasons of preference or of dislike, or at least it is not nearly a matter of so much accident. But in a ballot it is accident, and nothing else; so that, even on the doctrine of chances, a satisfactory appointment will, in general, be the result; and any occasional exception to this rule may at once be removed by the peremptory challenge. In other words, the selection by the Judge, supposing it to be indifferently made, has some of the accident of the ballot, without any of its corrective check.

The great, or rather the only answer that is made to all this, is, that the law has provided a high order of responsible Judges, and that parties must be presumed to be sufficiently protected, not only from unfairness, but even from the hurtful results which are said to arise from any mode of nominating jurymen which resolves into accident, by the ability and integrity of these eminent persons. This indeed is the great principle on which the existing system depends, and on which alone it can be defended. As it is sometimes stated, it is utterly unworthy of notice; for some of our late county resolutions just come to this, that we would be all quite secure and happy, if we were not trammelled by any laws or forms at all, but would only submit, without murmuring, to

the discretion of the Judges. But many well meaning, and not unintelligent persons, have a notion that there is something peculiar in the nomination of a Jury;—that, there is always one of the parties who has an interest in getting a bad one appointed;—and that this particular part of judicial procedure differs from every other, in this respect; that here it is best to rely on the sagacity and candour of a single individual. It has been already hinted, that it was this exclusive interference of the very honesty and wisdom of the Judge that constituted one of the greatest objections to the present system;—and the reason why we think so is this.

The principle of this system, we understand to be, that the Judge, in naming the Jury, really exercises his judgment and his will in each act. He does not specify the jurors at random, or by erecting a sort of a lottery in his own breast. If this were the way he proceeded, it would plainly be much better to set up an open and real lottery at once. Nor does he testify his impartiality, by first calling one name supposed to be friendly to one of the parties, and then calling another supposed to be hostile, or by regularly interlaying the different masses of prejudice, by the interjection of neutral men. If this, again, were the rule, nobody could deny that it would be a simpler and more natural mode of attaining the same end, to let the parties name an equal number of their own jurymen,—as each of them knows best how his interest lays,—and to dispose of the odd one by lot. But it is an operation of *selection* that the Judge is supposed to perform. He *picks*. He rejects some men, because it appears to him that there are good reasons why they should be rejected; and he takes others, because it appears to him that there are good reasons why they should be taken; and the elements of these opinions are furnished to him by his getting an articulate list of the name, occupation, and residence, of every one of the forty-five; which, in a small country like Scotland, is generally quite sufficient to enable any one versant in this sort of business to have a particular impression of the character, principles, and habits of nearly every individual on the paper. The principle of the thing therefore is, that the Judge *selects*; and that this selection proceeds, and indeed must proceed, either on what he knows of the jurymen personally,—or what he has heard of them,—or from what he sees stated of their rank, occupation, and residence, in the list which he holds in his hand.

Now, what is the intellectual process that decides this rejection or choice? The first answer to this question is ready enough. Those are taken, it will be said, who are supposed to have most knowledge of the subject to which the trial relates—or who

hold stations of respectability—or, who are reputed men of good character—or of right principle;—and the rest are rejected. This may be all very true. But what is the ground on which the human mind applies these epithets to particular individuals? There is no need of metaphysical speculation to answer this. It is only necessary to observe one undoubted and common fact. All men associate chiefly with those of whom they think well. And who are these? Are they not, almost uniformly, those who agree with their own views and habits? What bond of attachment is so strong, as unity of taste and principle? All men like to see, by sympathy in others, the reflection of those qualities which they have been cultivating, and of course which they approve, in themselves. Inquire what books any one likes to read,—especially upon subjects of personal interest, and, above all, of a controversial character;—it will be found that they are those which speak his own sentiments. In minds very oddly constructed, it may no doubt occasionally happen, but it is surely very rare, that an unflinching adherent of ministry voluntarily exposes himself to conversion, by solacing his leisure with Opposition work, or that a member of Opposition really, without affectation, makes a comfortable repast upon the productions of his Government adversaries. In short, every man, and every class of men, is naturally attracted towards those objects, those thoughts, and, above all, towards those characters which, by falling in with the frame of their own minds, give them no inward disturbance, and are judged of by that partial standard by which they judge of themselves. Hence we are satisfied, and indeed hold, that we have the authority of human nature for being absolutely certain, that if the interior workings of a Judge's mind who is naming a jury could be disclosed, it would be seen that, however unconsciously to himself, he was instinctively led to prefer those who he believed were likely to entertain the same opinion upon the case with himself. Even the illustrious Hale is said not to have been without this failing. 'His bias lay strongly for and against characters and denominations, and sometimes the very habits of persons. If one party was a counsellor and well dressed, and the other a sort of puritan, with a black cap and plain clothes, he insensibly thought the justice of the case with the other.' * This is not only the result of the great rule by which we all appreciate our neighbours; but there is something peculiarly irresistible to a Court, in an opportunity of abridging delay and toil, by avoiding every thing that is

* North's Life of Lord Guildford, p. 61.

likely to create resistance and altercation. The Court likes the business of the day to go on smoothly, and naturally shrinks with horror from all those men, whether they be counsel, or agents, or witnesses, or any thing else, who are understood or conjectured to be troublesome fellows,—in other words, to have wills of their own : And this is particularly tempting in the case of a Jurymen, because he has great rights, and a good pretence for being vexatious, and cannot easily be put down, and may make the whole trial end disagreeably. An easy, submissive, or what is called a *reasonable* Jury, is therefore a peculiar favourite with all Courts ; so much so, that we have some doubts whether, if it were not that their pronouncing the verdict divides responsibility, most Judges would not rather dispense with this incumbrance altogether. But the perfection of the institution certainly is to have the Jury, but to have no self-willed individuals upon it. As long as the Judge's mind predominates over the whole Court, every thing seems, to him at least, quiet, reasonable, and fair. But the instant that the operation of the constitutional principle, which is, that the Court and the Jury are to have no connexion whatever, except through the medium of evidence, begins to operate practically, then the painful feeling of discordance and opposition arises, and the day is spent, not under the placidity of power exercised over unobjecting deference, but in teasing and laborious efforts to remove doubts, to clear intricacy, to reconcile contradiction, and to produce coincidence of opinion, by explaining away all the circumstances that prevent it. And who is there, whether he be a Judge or not, who would not prefer the first of these states to the last, or would not insensibly be led to avoid every jurymen, who was suspected to be a person likely to disturb the easy and unquestioning serenity, so gratifying, not only to human indolence, but to human pride?

In all this, however, it should be observed, that this not only implies no unfairness on the part of the Judge, but, on the contrary, is rather a tendency which is apt to increase in proportion to the intensity of his honesty. A man of unconfirmed character, or of slight morality, cares as little about his jurors, as about his books or his friends. But a person of strong principle is apt to be keen in his opinions, because he is sincere in them. He is always positive that he is right ; and therefore earnest in protecting and extending those sentiments which appear conscientiously to him to be best. This species of decision, indeed, is so very apt to beset strong virtue, that it is one of the qualities that are always assumed, and generally overdone, by those who wish to be thought more deeply impressed than they really are with the

importance of the business they are engaged in. Persons, therefore, who act either from the real feeling, or from the assumption, of a deep and strong conviction, have a natural preference for those whose opinions correspond with their own; and view with emotions bordering on exclusion and bigotry, all those who shock them by rejecting or questioning their creed. Joseph Gerald, who was tried for sedition at Edinburgh in the year 1793, was chiefly accused of being a member of the British Convention; at least this was the great overt act on which all the rest depended. This Convention was unquestionably a criminal association; yet thousands of people all over the country belonged to it, many of whom must, in all probability, have joined it, or acted after they became members, in circumstances which palliated, or altogether removed, their guilt; and Gerald chose to make the absolute innocence of the institution a main part of his defence. A juryman was named by the presiding Judge, against whom it was stated, as an objection by the prisoner, * 'That he had repeatedly declared in private conversations, that "*he would condemn any member of the British Convention, if he should be called to pass upon their assize*;" and I wish (said the pannel) to refer to his own conscience and his oath, whether he has not prejudged the principles on which I am to be tried.' The answer made to this by the Judge was, 'As this objection is stated, I *hope* there is not a gentleman in the Jury who has not expressed the same sentiment!' Strong criticisms have been made on this speech; the propriety or impropriety of which, however, we do not discuss; but the useful commentary which it suggests, consists in the example it exhibits of the tendency which every Judge, especially if he be vehement in what he conceives to be sound views of law or morality, has to reject or to accept of whole classes of men, according as they resist or uphold these principles which he happens to think right—even although it be regularly intimated that there are others, and among the rest the prisoner, who entertain very different views of that matter.

The security, therefore, which is given to the parties, by the impartiality of the Court in naming the Jury, amounts practically to this, that the Jury, instead of being, as the theory of the law supposes, a component no-doubt, but still an independent part, of the tribunal, is made, in a certain degree, the image of one individual Judge;—that this exact coincidence is not the natural result of the same evidence, operating to produce a general conviction among various minds, but is the effect of an

* Howell's State Trials, Vol. XXIII. p. 901.

artificial mode of collecting the individuals prior to the period at which the proof can begin to influence their understanding; and that this is particularly the case upon those very occasions when, from the prevalence of faction, or of other causes of prejudice, it is most desirable that they should be perfectly free.

So much with respect to the parties.—As to the *Jury*, the present practice seems to be necessarily attended with at least two injurious consequences. In the *first* place, it is useful for all those who are liable to act as judges of the evidence upon matters of existing interest, to live under the impression that all their convictions, words, and very thoughts, upon these subjects, may be inquired into. This tends to keep their minds open, and makes them avoid many of the situations or proceedings by which the judgment may be prepossessed; and brings them into Court on the day of trial, uncommitted to any certain opinions, and in a pure and dispassionate frame of spirit. Whenever it is established, however, that their characters or conduct are protected from the investigation of parties, and that all their rashness, violence, and prejudice, is huddled up from discussion, and saved from being peremptorily challenged, by a judicial nomination with which the parties cannot interfere, the great check against premature impressions, secret cabal, or public resolution, is altogether removed. In the *second* place, the selection by the Judge interferes directly with that independence of the Jury upon the Court, which is the main principle of the whole institution. A feeling of dependence, or, what is the same thing, of favour, is necessarily produced, when it is understood that they owe the honourable, though laborious, station to which they are called, not to chance, nor to the confidence of the parties, but solely to the good opinion of the presiding Judge. It is in vain to suggest, that this is a station of such pain, responsibility, and confinement, that it is rather an object of alarm than of ambition. This may be true. But it is not in every way that people like to be relieved even from severe duties. Very few men chuse to have it plainly intimated to the public, that there is a Court which thinks little of their understandings or principles, or better of those of others. We may ask every one practically acquainted with the subject, whether, if it were observed that there was a gentleman who was summoned regularly to a Circuit town, and yet as regularly avoided in naming the Juries, this would not be felt by him, and remarked by others, as a degrading or suspicious circumstance? The Sheriff of one of the counties, who delivered his sentiments against the bill at one of the late meetings, praises the existing usage, because (says he, in the newspaper report of his speech) ‘It is the practice of

‘ the Judge to name; on every Jury, a certain proportion of gentlemen of the first influence, intelligence, and respectability in the county, whose opinion may have a just weight in the deliberations of their fellow jurors.’ Now, if being named by the Judge be thus the symbol, so far as he can display it, of the first influence, intelligence, and respectability in the county, who can deny that it would be thought a grievous hardship to deprive any one of his portion of the honours of this curious aristocracy of Jury-trial?—which is a scene, it seems, where local influence is to lord it over the humble drones by whom the box may be incumbered. Accordingly, whenever any jurymen has made himself remarked for what is held to be positiveness of opinion, keenness of interrogation, or any other habit that occasions trouble, we have been always accustomed to hear it pretty significantly hinted, that he had little chance, if his name were remembered, of signaling himself in that way again. Let the situation, therefore, be as laborious as it may, still it is practically felt and understood to be a circumstance favourable to a person’s character and station, that the Judge approves of him as a jurymen;—and if this be the fact, it is impossible but that a feeling of undue dependence, and of dangerous sympathy between the Court and the Jury, must be the result.

With regard to the Judge himself, the usage must be viewed in two lights;—as it affects him *judicially* and *personally*.

On the first of these, we need say no more than that every Judge is exposed to be spoiled and degraded, by being obliged to do any thing, except to attend to the discharge of his proper judicial business;—which is the exposition and the application of the law. To convert him into a ministerial or executive officer, is to lower him from the pure and lofty sphere in which alone he should act or breathe. And, of all the employments that are unfavourable to the formation of those habits on which the excellence of the judicial character depends, none can possibly be more hurtful, than his being required to begin each trial by exercising an act of discretion which, if it be well exercised, implies that he is to form an opinion of the principles, intellect, condition, connexions, and general circumstances, of every man in the Kingdom who is liable to serve as a juror. And it must be added, that if there be any country where this is more pernicious than another, it must be in that country where an elevation to the Bench is not always understood to be necessarily followed by a complete abandonment of those pursuits or associations, which are found to be the most copious sources of prejudice and interest in ordinary men.

On the Judge *personally*, the present state of the law is a grievance, which, being unnecessary, is utterly intolerable. For, let him be conscious of the purest candour,—nay, let him even succeed in being certain that, under the influence of this feeling, he has absolutely made the very best nomination that the list admitted of;—still, so long as he is compelled to make any selection at all, he is doomed to act under the perpetual impression, that, notwithstanding all this, he may have gone wrong; and under the painful conviction, that, even when he has not gone wrong, error or prejudice may be imputed to him. The misfortune of this situation must always be the most distressing to the man of the deepest conviction of duty, the greatest feeling, and the most delicate sense of the honour of his place. If such a person should ever discover that even a single man had been put by him upon a Jury, whose absence would have been beneficial to justice, and whom he would never have named had he but known the facts, he must feel it as an aggravation of his regret, and not a consolation, that he can state truly, that he was ignorant, and that the law gave him no opportunity of being checked by the parties;—a defence which may completely exculpate the man, but is the severest condemnation of the system:—Yet, some of our counties actually bring it forward as an objection to the Bill, that it interferes with what they call the *privilege* of the Court! as if the performance of an unusual, unnecessary, and invidious executive office, was to be considered as one of the luxuries of the Bench. This is too absurd and abominable to be reasoned about for a moment. So painful must the discharge of this duty be to every right thinking or right feeling man, that if it were made optional to each Judge to adhere to the old system, or to adopt the new one as he chose, we are confident that there would not be one who would not gratefully avail himself of an opportunity to decline exercising a discretion, which bad men may always abuse with impunity, and which no good one can save himself from the imputation, or, which is worse, from the chance of actually abusing.

With respect to the *general character of the administration of criminal justice*, our present law is necessarily attended with the evil just mentioned, of exposing Courts to injurious suspicions. It concerns the dignity and usefulness of every judicial establishment that its proceedings be believed to be regulated by general and undoubted principles of justice. But wherever things that are material, especially if founded on a supposed knowledge of the personal condition or character of third parties, are left to the undiscussed discretion of Judges, this object can never be

attained. Insinuations of ignorance, intention, unfairness, or caprice, will always be made; and it is an aggravation of this misfortune to say, that these imputations are groundless; for this only shows that the mischief is inseparably connected with the system. There are cases where the purity and intelligence of the Judge is so unquestionable, as to prevent or silence these whispers. But still the regret, whether just or not, that bad Jurymen were selected, from the very impossibility, under the present law of avoiding this, remains; and this feeling, even where it is groundless, is only made the more lamentable from its being so. Every person who lived in Edinburgh in the year 1793, must remember, that the following anecdote about the case of Thomas Muir, who was then tried for Sedition, was current here in that day. It has been always mentioned in the printed accounts of the trial; and we see it stated as undoubtedly true in the debate at one of the late county meetings. There were certain persons who formed themselves into what was called, from the place where they met, the Goldsmith's Hall Association. The avowed object of this fraternity was to put down what they thought sedition; and for this purpose, they put forth a flaming declaration of loyalty. Mr Muir, who thought himself as loyal as any of them, signed this paper. But as soon as it was discovered that he belonged to the Friends of the People, or the British Convention, his signature was erased; and this proceeding was announced to the public by an advertisement, framed and circulated by the Association. In a few weeks after, Muir was brought to trial for sedition; and the main fact charged against him was, his belonging to these criminal societies. Of course, the whole of those who had been members of the Association, and had concurred in erasing his name, had virtually certified and published, that they thought the mere fact of belonging to the Convention constituted sedition. Yet every one of his fifteen Jurymen were members of this Association; and the Chancellor was one of a committee of fourteen who had actually struck him out. We beg it to be specially observed, that we do not mean to vouch for the accuracy of all, or of any part, of this story. All that we mean to assert is the fact, that the statement was made at the time of the trial, and that for nearly thirty years it has been employed to account for a result, which, in that particular case, we believe that most men now lament. Its being false, since it has always been prevalent, would be just so much the better for our view.

For, is it not to be regretted that such anecdotes should even be imagined, but more especially when utterly groundless, in order to explain the issues of grave criminal proceedings? And

let it not be supposed that they are of rare occurrence. We specify this one because it is notorious, and has lately been founded on. But similar statements are found out, or invented on similar occasions, every day. See what takes place in any case, but particularly if it be of political interest, at that part of a Scotch trial when the Jury is named. Observe the anxiety of the parties, as each successive name is announced by the Judge;—the conjectures who is to be approved of next, the vulgar and injurious explanations by the by-standers of the probable motives of each selection—the alternation of hope or of fear as the Assize gets gradually composed of one set of men more than another—the attempts, after all is over, to account for the verdict, not by the evidence, but by the men—and the speculations everywhere afloat as to what *might* have been the result, had it only pleased his Lordship to make a different choice. Who can deny that these practices and these surmises exist? And who will say that they are not to be regretted? To a certain extent, no doubt, the same thing would happen even while the jury-box was filling by ballot. But it is surely a very different thing whether the conduct, or the event, of a trial, is to be discussed with reference to any thing that depends on chance, and is for this very reason at least perfectly fair, or with reference to the will of the Court, where every thing that is either blamed or lamented, is sure to be ascribed, no matter how falsely, to some carelessness or peculiar motive in that quarter. These conjectures may be idle or malicious; but no power upon earth can prevent them, so long as the system of the Court makes them intelligible and possible. And is not the dignity of our Court lowered, and its proper influence impaired, by these indecent speculations—which it is utterly in vain to think of putting down by referring to the mere discretion of the Judge?

If these views be sound when applied to the Supreme Criminal Court, they must be infinitely stronger when directed to the inferior tribunals; because the latter, by their very constitution and situation, are deprived of many of the most powerful checks which prevent abuse in the former. The Sheriffs, for example, have no regular Bar to observe or assist them; the curiosity of the public is very rarely turned towards the petty cases which they try; there is no public officer interposed, as in the Court of Justiciary, between them and the Jurymen, but such as depend entirely on their pleasure; and, though a most valuable, and indeed indispensable order of functionaries, they are not of that high rank which, from its very importance, attracts notice and increases responsibility. When a Sheriff tries by Jury, it may be fairly stated that he not only has the

nomination of the fifteen, but the entire and absolute command over the whole previous steps by which the forty-five, out of whom that number is selected, are called together.

The defects of this system are so palpable when they are once pointed out, and are so glaring and indefensible, that every body seemed instinctively to have perceived them, and to have acquiesced in the propriety of the remedy that was proposed. Notice of an intention to introduce the measure was given very early in last Session of Parliament; and the Bill was actually read, for the first time, on the 16th of February 1821, when its author intimated that he did not intend to move the second reading till May. Though ample time was thus given to the country for consideration, not the slightest symptom of any serious opposition appeared. Different people on all sides proposed, or rather speculated, about different improvements on matters of phraseology or detail; but we never remember any subject on which intelligent men, who gave their minds to it candidly and without party feeling, were nearly so unanimous.

That this silent congratulation of what was going on would have continued, there is no reason to doubt. But the honour of the measure had been attempted to be usurped by an Opposition Member, and therefore, like every thing else of the kind, it was destined to be blighted by the curse of party; and, for this purpose, the following epistle was written and sent by the Lord Advocate to every county, and (we believe) to every Royal Burgh in Scotland.

‘ Sir,

London, April 6th, 1821.

I beg herewith to transmit a copy of the proposed Act of Parliament relative to the mode of choosing Juries in Criminal Cases; and beg that you will communicate the same to the Convener of the county of ———, so as it may be taken into consideration by the county at the ensuing ——— meeting. Those present will be able to judge, from their own experience, whether any such evils have resulted from the present practice, as should render such a change now necessary. These changes, if once commenced, will naturally lead to others; and it is impossible to foresee the inroad which may thus be made on the Criminal Law of Scotland, with which the country has hitherto been so truly satisfied. It is indeed quite obvious, that the Bill now proposed, if passed, must be preliminary to another act, requiring the attendance of an additional number of Jurymen at Circuits. Peremptory challenge necessarily puts an end to the trial of more than one person in the same indictment; for prisoners, under such circumstances, never will be advised to concur in their challenges. The number of trials will thus be increased, while the power of the Judges so to distribute the business among the forty-five, as to make it practicable for that number to accomplish the duty, will be

taken away; and as the ballot may repeatedly fall on the same individuals, the only palliative remedy will consist in augmenting the general number from which the fifteen is to be selected. Though my own mind is made up against the policy of the proposed provision, I do not desire to be understood as wishing unduly to influence the county gentlemen in the decision which they may form regarding it; but merely to point out some of the probable consequences, so as there may not subsequently exist any just cause of complaint, if, when the Act is put in force, such inconveniences should be found to result from it. I have the honour to be, &c.

(Signed) WM. RAE.

‘P. S.—As consideration of the Bill is to be resumed on the 8th of May, no time should be lost in communicating to me the resolutions adopted on the ———; and if it is the wish of the Meeting to oppose the measure, the effectual way is by Petition to the House of Commons. I have the honour to be,’ &c.

Instantly upon receiving this rescript, which had the merit of not only stating what the counties and burghs should resolve, but of sending the reasons, cut and dry, on which their resolutions should be grounded, the counties were all in commotion. Meetings were called, Speeches made, Resolutions passed, and Petitions sent off to the House of Commons. We have these productions before us—and a more humiliating set of documents never was exhibited. We are far from blaming those who led, or who allowed themselves to be misled, merely for differing with us as to the policy of the measure; though we must say that we can scarcely imagine a subject on which less sincere difference of opinion could be supposed to prevail. But it is the time, and the style, and the grounds, of the opposition that are so lamentable, and so degrading to the character of the country. This zealous opposition never indicated itself in a whisper, till the official intimation that it would be acceptable. It then broke out so instantaneously, and so generally, that it is utterly impossible not to perceive the connexion between the effect and the cause, or to explain this connexion away by saying, that there was merely an unfortunate coincidence, in point of time, between the letter and the votes. And then the reasons assigned for the opposition, are not marked by that variety which never fails to distinguish the thoughts of different men who are really employing their own understandings, even when they agree in a general result, but are merely a slavish echo of the topics officially suggested. This is a matter a good deal connected with technical details—inasmuch, that we put it to the consciences of these gentlemen if there was ONE among them, not a professional person, who was aware that, in the great majority of

cases, the Judge not only named the fifteen, which they might see done openly in Court, *but also that he selected the forty-five?* Yet we cannot discover that committees were ever appointed to investigate the facts, and to report; on the contrary, we see that they were sometimes refused; or that the meetings, after one discussion, were adjourned, in order to give time for deliberation or inquiry; or that the business was conducted even with that slender degree of leisure and meditation which it is commonly thought but decent to bestow on any ordinary question about a road or a parish tax. The county of Lanark, indeed, appointed a committee, and Mid-Lothian stretched its liberality so far as to grant one adjournment. But, with these exceptions, which are the whole that we can detect, there was just one eager, faithful, and unvarying, repetition of the hackneyed alarm of innovation—the high satisfaction of the country in its old institutions—the supposed impracticability of Scotland doing what all the other nations of Europe, who have established Jury Trial, do—and the peculiar excellence of our Criminal Law—all of which had been regularly prescribed as their theme.

There were some few detached occasions on which they ventured beyond the precise line that had been laid down for them, and tried to improve or vary the topics they had got, by views of their own; and, in every instance, they seem to have fallen into some of those deplorable absurdities which must always mark the statements of men, who are speaking under the double confusion, of neither knowing what they are discoursing about, nor what it is that they themselves wish to say. The Dumbartonshire gentlemen actually pass a distinct resolution, which (in so far as it is intelligible) seems to import, that it is contrary to the Union between the kingdoms to improve the criminal law of Scotland. ‘*Daily*, By the 18th and 19th articles of the treaty of Union between England and Scotland in 1707, our municipal laws, and the jurisdiction and forms of proceeding in our Courts of Justice, civil and criminal, are left entire, and not in general to be altered, except upon good cause shown by acts of the British Legislature. It would, therefore, be against the spirit of that solemn transaction to propose variations, merely for the purpose of assimilating our forms to those of England. In case of treason, we agreed to adopt the law of England; but this was the only exception.’ They all praise the law which requires the accused to get a list of his jury fifteen days before his trial, because this enables him to ascertain that they are unobjectionable. And yet the Argyleshire Resolutions, not perceiving that the only use of this is to let the party challenge where he has discovered an objection, state,

‘ That the right of peremptory challenge is *unnecessary* in Scotland, where the law requires that the name, designation, and place of residence of each juror shall be notified to parties, fifteen days at least before any trial can take place.’ An ordinary man would have thought that this was the very case in which the challenge should be allowed, as the other rule is almost a mockery without it. One of the main considerations which operated at the Ayr meeting, was, that Scotch verdicts must be in writing; that this requires skill to frame them; that ‘our books are full of cases where the greatest criminals have escaped through trifling clerical blunders in the written verdict;’ and that, therefore, the Judge should be allowed to put at least one skilful person on the assize. On this we humbly suggest, *1st*, That if the books be full of these awkward cases, this is rather an unfortunate argument for persevering in the system that gave rise to them. *2dly*, That the chance of this evil is now greatly diminished by a late law, by which written verdicts are dispensed with wherever the Jury are unanimous. *3dly*, That it is notorious that it has been often proposed to put an end to them altogether; so that it would be a recommendation of this Bill if it hastened the period of their total abolition. *4thly*, That in the mean time every Jury almost gets regular forms of verdicts sent them, and that they very rarely go so far wrong as not to be able to fill up the blanks.

However, it is but fair to own, that the counties in general kept clear of these independent follies, and judiciously adhered to the official text. The spirit and language in which they all did so, may be perceived from the following grand declaration in the petition from Stirlingshire. The petitioners state—

‘ That they have examined, *with all the attention due to so important a subject*, a Bill now pending before the House, intituled, “A Bill to alter the mode of choosing Juries to serve on Criminal Trials in Scotland;” and it was not without surprise that they learned, from the preamble of the Bill, that *any* alteration is thought necessary in the existing laws on the subject. If the petitioners have derived from their ancestors *any* inheritance of which, *above all others*, they have just reason to be proud, and which it is alike their duty and their interest to guard, with the most anxious solicitude, *from the attacks of a restless spirit of innovation*, that inheritance is the *Criminal Law of Scotland*, by many degrees the most perfect ever enjoyed by any nation; and the petitioners have never felt, nor have they ever heard of, any practical evil arising, in modern times, from the supposed defects which this Bill is intended to remedy; and they most earnestly deprecate any rash alteration on so venerable a fabric, of which no stone could be displaced without the risk of consequences, some of which, perhaps, human wisdom cannot foresee.’

The opponents of the Bill have boasted that these sentiments have been uttered, *as reasons against it*, by every county, and by every burgh in Scotland. This is not true; * but though it were, it would only prove more completely the utter incapacity, not of the country, but of the country as represented by such meetings, to form any intelligent or independent opinion on the subject.

We find in the printed speeches of those who delivered their opinions, many ingenious conceptions, (such as, that the Bill went to compel all Juries to make their verdicts unanimous); which, though they seem to have made a great impression in places where they were uttered, it would be a waste of time to refute, and very ill-natured to disturb the inventors in their enjoyment of. But there are some of the grounds taken up in the petitions, or, in other words, in the official mandate which was sent round as their model, to which strangers may not discover the proper answer; and, to these, it may not be amiss to give some explanation.

It is said that the introduction of a ballot and of peremptory challenges would lead to confusion, and to great hardship on individual Jurymen; especially at Circuits where the greatest number of criminals are tried, and in the shortest period of time. In order to show how this effect is said to be produced, we shall take the strongest case that can be supposed to occur. We have explained already that there are forty-five Jurors summoned to attend at each Circuit town; and that the Jury which tries each individual case consists of fifteen. Now, suppose that one case has been so far tried that the Jury have retired to deliberate on their verdict. This, according to the present practice, does not stop the whole business of the Court, for a new Jury is set for a new case. If fifteen be engaged otherwise, then only about twenty-five remain free; for owing to sickness, absence from home, and other accidents, the whole forty-five do not uniformly attend. But if a new Jury of fifteen is to be chosen out of twenty-five, prisoners, if they be indulged with any peremptory challenge at all, will never concur in them, but

* A great number of the Burghs did not petition. And as to the Shires, it is sufficient to mention Lanark, Kirkcudbright, and Wigton, which saved themselves from the degradation of the late proceedings—the former by appointing a committee, the two latter by doing nothing. Those who talk of the unanimity of the country, however, always take care to conceal that these meetings were by no means numerously attended, and that in many of them, there was a most respectable opposition.

will exercise their right in such a way as not to leave fifteen unobjected to, just on purpose to prevent themselves from being tried. And even where none of the Jury at all are preoccupied, but the whole forty-five are ready to be employed on one single case, and thus there remain no fewer than twenty-five or thirty to be challenged, without diminishing the number too low, it has been conjured up as a formidable evil, that still it will be impossible to put more prisoners than two or three into one indictment; and that thus the administration of justice may practically be greatly obstructed. The county of Dumbarton insists that there shall be room not only for six prisoners, but for *two prosecutors*, one public the other private, in each indictment.

We should think it a sufficient answer to this bugbear, especially when addressed to those who profess such reverence for experience, that if there had been any solidity at all in the objection, it must have appeared in the Jury Court, where never more than forty-five Jurymen have been summoned, and where the number of parties in each case is in general far greater than in criminal prosecutions. Yet no such practical evil as is here imagined has been felt there. It is true, that criminals may sometimes resort to devices for preventing trials, which litigants in civil suits will not generally adopt. But the number of persons concerned in civil causes is so much greater, and their reasons for challenging are rendered, by the multiplicity of interests, so much more complicated and extensive, that it might easily be shown, by an actual examination of the cases that have really occurred, that there is much less chance of a failure of justice in the Criminal than in the Civil court, from the use of the peremptory challenge. But, moreover, it is obviously premature to state this objection, until it be shown to what extent the challenge is to be allowed. This is as yet blank in the Bill. If it be no greater than what is permitted in the Jury Court, namely four challenges to each party, it is difficult to see how any real evil can arise; or, at least, any evil fit to be put in competition with the advantages of the measure. But if any difficulty of trying the cases should be feared, it will be observed that this can always be foreseen, because the exact business of each Circuit is minutely known several weeks before the Court meets; and that nothing is easier than to provide for any unusual cluster of culprits being put (which it is a very foolish thing to do) into one indictment, by the simple expedient of summoning a few more Jurymen. One of our most eminent Judges * states, in his valuable Notes, that 'it is from a misapprehension that no

* Lord Royston, p. 216.

‘ more are summoned to Circuit Courts than forty-five ; and
 ‘ surely forty-five are too few to serve at Circuits, where there
 ‘ are often many causes tried ; which therefore should be recti-
 ‘ fied ; accordingly, there were sixty summoned to attend at In-
 ‘ verness in May 1738.’

But at any proposal of this kind, the objectors bristle up in great alarm, and exclaim, that an increase of the number of Jurymen is a vast hardship upon those who are liable to be called on to perform this duty ; which, they would wish it to be understood, falls entirely upon themselves. And this is connected with another topic, of which a great handle has been made. The letter points it as a peculiar beauty of the present law, that ‘ it is in the power of the Judge to distribute the business among the forty-five,’ whereas ‘ the ballot may repeatedly fall on the same individuals ;’ and hence the counties are threatened, if they do not resist the Bill, to be punished with the triple visitation, of having not only an increase in the number of trials and of Jurymen, but of getting the labour laid on unequally among them. That man is much less acquainted with the nature of our country gentlemen than the Lord Advocate is, who does not believe, that this threatened addition to their own personal trouble, had far more influence on the late Resolutions than any other consideration,—not even excepting that frightful inroad which this Bill is to make on the Criminal law of the land.

Now, it will be recollected that we are talking of no less an affair than Trial by Jury—the noblest perfection of the British Constitution. The exercise of this great privilege is no doubt attended, in every instance, with personal inconvenience to those who act as jurors. But still it is an institution which all other classes of men have been anxious to promote, and with reference to which it has not merely been a professed, but a genuine and cordial feeling, that all murmuring about individual trouble is to be suspended and despised, amidst the absolute necessity of the blessing itself, and the mighty recompense by which all such inconvenience is rewarded. Now, what is the amount of the call that is made on the liberality of Scotchmen in support of this part of our Government ? To say nothing of all the Welsh jurisdictions, have we Circuits held twice a year, in every county separately, as in England ? Have we quarter-sessions trying cases by Jury, held regularly at the least four times every year in each shire ? Have we innumerable sessions tried by Jury, under local acts of Parliament, before the inferior jurisdictions ? Have we Juries assessing damages in all cases of that description where judgments have gone by default ? And, besides all these, and other countless occasions

in which Juries are required in the Nisi Prius and Crown Courts, are we very heavily burdened with Grand Juries and Coroners' Inquests? Do our ordinary Circuits last a fortnight at each place? These things are habitual with the people of England; yet, instead of being grudged, they are acknowledged to be the means of imbuing the whole population so practically with the spirit of Jury Trial, that every man in the kingdom is interested in the administration of justice, and knows something of the rights and the duties of jurors. But we have no Coroners, no Grand Juries; and, with the exception of the Jury Court for Civil causes, which is yet in its infancy, scarcely any jury business whatever, except what is done in the Court of Justiciary. Now, it has been stated already, that the Circuits of this Court are held only twice in each year, and that each Circuit comprehends only three places of meeting. But it must farther be explained, that there is hardly one of these places where the whole business *ever* occupies more than *three* days, except Glasgow, where it sometimes, though rarely; consumes a *week*;—that nothing is more common than the total absence of almost all business whatever at a Circuit town;—that the whole West Circuit lasts only about a fortnight; the South scarcely so much; and the North never more than three weeks; and that the qualification for a juror is so low, as to include almost every person of any substance, whether landlord or tenant. So that the sum-total of the services now required from each district, consisting of three or four counties, with all their towns, is, that forty-five individuals are obliged to repair to the place of meeting twice a year, and (Glasgow excepted) are kept there sometimes not above one day, often not above two, and we might say never above three. And, to make up for their being kept about a week at Glasgow, it will be recollected that the population of that district is not less than 250,000 or 300,000; and, of course, the forty-five jurors are chosen the more rarely, because the number of those liable to serve is larger. How complete, then, must be their insensibility to the value of this institution, who can rise up and clamorously oppose an important improvement, because it is possible that it may lead to ten or twenty names being added to the list of those who are already only liable to undergo this slender inconvenience!

But, after all, there is no absolute necessity even for this innocent remedy. There are various very simple provisions, by which the objection may be completely removed. If it were even to be declared that the challenge was to stop whenever its further exercise was likely to diminish too much the number of jurors who remained; though this would no doubt greatly impair

the privilege, yet the Bill would not substantially fail. Because directed, as Scotch prisoners invariably are, by respectable Counsel, we have no fear whatever of the right of challenging being exercised merely for the purpose of defeating justice; and therefore the real benefits of the measure would still be reaped in a most valuable degree, even although there was a very considerable limitation to the exercise of it. But, without going this length, what would be easier than to quiet the fears of the country gentlemen completely, by declaring that the same Jury, *when once balloted*, might try a number of cases—as, for example, the whole cases for the day? This, no doubt, would take away the challenge from all the parties except those who were engaged in the first case. But, in this respect, they would be no worse off than they are now; and both they and the country would be a great deal better off, in so far as the Jury that tried them would at least be *chosen originally* by ballot; and thus the character of the Court, and the feelings of presiding Judges, would be saved. But then, says the letter, no device can prevent the ballot from falling often on the same man; whereas at present the Judge can make all work equally. Now, it has commonly been supposed, that the parties have a fair claim to have their rights adjusted by the greatest quantity of honesty and intelligence that can be extracted out of the list, and that their all concurring in wishing the same individual to be upon their Jury, is the very highest compliment which the law of this country enables one man to pay to another. Yet the good taste of those who predominated at the late meetings, has induced them to recommend an equalization of service among Jurymen;—by which all distinction of moral and intellectual character must be confounded, and which moreover virtually deprives the Judge of that discretion in selecting, which these very gentlemen declare that the safety of the State requires to be preserved omnipotent. They do not seem to be aware that the will of the Judge may fall repeatedly on the same individual, as well as the fortune of the ballot. They are pleased to suppose, to be sure, that whatever his power may be, his Lordship will always exercise it in such a manner as to divide the toil equally. Nothing can be more notorious than that this is not the fact. But if it really were so, would it not be as well not to introduce a system of direct legal rotation at once, instead of employing the Judge as a mere instrument for the attainment of the same end?

But the truth is, the whole of these objections proceed upon a complete misconception of the real practical effects of peremptory challenges; which, instead of operating as an oppression

upon Jurymen, is the best device ever yet invented for their occasional liberation and comfort. Under the present law, the Judge, if he happens to fall in love with a Jurymen, has it in his power to keep him in the box during the whole Circuit; and there is no cure for this unfortunate attachment. And, independently of this, it happens constantly that Jurors have other claims upon their time and presence, which make their attendance in Court inconvenient; insomuch, that there are often people who pay their fines rather than answer to their names. All this is completely avoided by arming the parties with a few peremptory challenges. They, and still more their legal advisers, always find it for their interest not to make themselves unpopular by unreasonableness; and the experience of the Jury Court has shown, that there is no power more likely to be exercised, for the accommodation of the Jurors themselves.

Besides these objections of mere arrangement and detail, the matter has been taken up on somewhat higher grounds; and it has been urged, that *no particular case* can be produced where the Judges have abused their powers, or where any mischief has been practically felt;—that the country is satisfied;—and that this question must not be considered as if it related to a detached and simple measure, but must be viewed with reference to all the other parts of the system. There are strong grounds for suspecting that these topics have not been introduced, because they have any fair application to the change contemplated by this Bill, but in order to induce or provoke its friends to begin discussions which are not only complicated, but calculated to create alarm, and to excite unworthy prejudices.

For example, if an instance of actual judicial abuse were to be given, provided it were not so old as to be a mere matter of history, would it not instantly be said that here was a bill which could not possibly be passed without conveying a direct censure on the Judge or the Court referred to? In so far as respects modern times, therefore, the proper answer to this call for cases is, that no time is so good for introducing such judicial safeguards as may be useful hereafter, as those in which the character of living or of recent Judges is beyond all impeachment. At such a time, it is enough to justify the precautionary measure in question, that every Judge *has it in his power* to do wrong without the possibility of detection; and that, even when his designs are pure, nominations as pernicious as if they had been intended to be bad, may occur from error. And it will be observed, that the requisition for specific instances is the more absurd, that whenever a Judge is really inclined to go wrong, this is precisely the occasion when the crime will be best concealed.

There may be some chance of detecting the error of an artless manner of a Jury; but what mortal eye can ever pierce through the hypocrisy of a wicked Judge; or expose the cunning with which, while he may baffle inquiry by saying he is only exercising his discretion, he may put into the Jury a few persons notoriously favourable to the party he wishes to injure, and thus give the very profligacy of his conduct an air of justness, and even of liberality!

Thank God, this is not the age in which these observations can be stated as applying to any thing that exists. But this call for cases is not sufficiently answered by saying that, in principle, it is idle. Events have occurred, which, although they have now become historical, cannot be lost sight of in thinking of this subject, but ought to be brought more prominently forward, just because, by being historical, they may afford much instruction, without giving any offence. We do not mean to enlarge upon them; but we must beg those who think this part of our judicial system so very perfect as some of our counties profess to do, to reflect what passed in this unhappy kingdom towards the close of the reign of the Stuarts. There perhaps never was in Europe a more frightful and atrocious course of bloody proscriptions and cruel persecutions, than Scotland suffered during the twenty or thirty years preceding the Revolution. One of the most admonitory and alarming circumstances in the history of these horrible scenes is, that, to a great extent, they were acted in our Supreme Criminal Court; that the murders there committed had often the formal authority of a verdict; and that these verdicts were pronounced by Jurymen selected, as at this moment, by the Court. It cannot be denied that these are facts; but it has been said that the Judges, not having the power of appointing the Juries, would not have prevented them from happening. There are good grounds for doubting this; for the opinion of the country was so much against these proceedings, and the whole system of Government was so completely a matter of force, that, if no packing had taken place both before the trials and at them, we are satisfied that such verdicts could never have been obtained. But the true question is, whether the absence of this judicial control over the persons of the Jury, *would not have helped to prevent these atrocities?*

The best answer to this, is to humour those whose scruples require it, by giving them one actual case, which we earnestly recommend to the attention of all those who imagine that intrigue is invariably excluded from the temples of justice.

In the year 1605, James, the Sixth of Scotland, and First of England, was very anxious to get a conviction of treason against

some meritorious clergymen, who had maintained the Presbyterian form of religion, which it was his Majesty's pleasure to suppress. For this purpose they were brought to trial. But Presbytery was then, as it has always been, such a favourite with the people of Scotland, and those who stood out in support of it behaved in general with such constancy and devotion, that there was very little hope of success from any trial that should be fair. Every honest jury had 'a wonderful doubt.' In order to remove this obstacle, the Earl of Dunbar was directed to take charge of the case. This person was well fitted for the task, having been Chancellor of the Exchequer in England—deeply engaged in all the affairs of Scotland—the first of his family who had been raised to the peerage, and being, in his personal character, 'a man of deep wit, few words, and in his Majesty's service no less faithful than fortunate. The most difficult affairs he compassed without any noise, and never returned when he was employed, without the work performed that he was sent to do.' * Accordingly, he performed this task admirably, and without any noise: For he went to the right place at once, and did the business completely, by merely getting the presiding judge to make a proper use of his authority in naming the jury. Sir Thomas Hamilton, who was the Lord Advocate, wrote a letter to the King, giving his Majesty an account of the trial, which had by this time ended in a conviction. The late Lord Hailes, in the course of his learned researches, discovered this document, and saw that it was well entitled to a place in his collection of 'Memorials and Letters relating to the History of Britain during the Reign of James the First.' It is too long to be all quoted; but the real operation of the machinery is very candidly described in the following passages. He sets out, by mentioning, 'my conceived fear, that my silence could not find out any lawful excuse, if I should not advertise your Majesty of the progress and event of the criminal pursuit of Messrs John Forbes, Welch, and others.' The case is then stated as a political one, involving the 'utter subversion of your royal power within this kingdom.' After which, he goes on thus:—'I should omit a point of my duty if I should conceal from your Majesty, that the first and greatest praise of this good success should be given to your Majesty's self, for foreseeing this matter to be of such difficulty and danger; as it required the particular direction of your Majesty's own most excellent wisdom, by

* Archbishop Spotiswoode's History of the Church, p. 516.

' the report and prosecution of my Lord of Dunbar, who, I am
 ' assured, in all his life was never so solicitous for the event of the
 ' trial of other mens lives. For, at his here-coming, finding that
 ' matter full, not only of foreseen, but also of unexpected dif-
 ' ficulties, his care and diligence therein has been so assiduous,
 ' wise, and provident, that he made *secret* choice of this time
 ' and place (Linlithgow), which, by the effect, has proved most
 ' proper, and *lively expressed to your Majesty's Justice, Justice*
 ' *Clerk, and the other members of that Court, your Majesty's care*
 ' *of the maintenance of your royal power, brought in question*
 ' *by that process, with the undoubted favours which they might*
 ' *expect by doing their duty, and most certain disgrace and punish-*
 ' *ment, if, in their default, any thing should miscarry.* Finding,
 ' beside other great impediments, the chief peril to consist in
 ' the want of an *honest* assize, who, without respect of popular
 ' favours, threatenings, or imprecations, would serve God and
 ' your Majesty in a good conscience; for known default of
 ' constancy and good affections in others, he was compelled to
 ' cause his own particular and private kinsmen and friends to
 ' make the most part of the assize, who, being admitted on the
 ' same, if he had not dealt on that point but (i. c. without)
 ' scrupulosity or ceremony, to resolve them of that wonderful
 ' doubt, wherein, by many means, chiefly by the thundering
 ' imprecations of the pannel, and contentious resistance of their
 ' own associate assizers, they were casten;—that whole purpose
 ' had failed, to our infinite grief and your Majesty's over-great
 ' prejudice. For the good success whereof, I shall ever thank
 ' God, and ever pray Him and your Majesty to put us to as few
 ' essays in the like causes, as may possibly stand with the weal of
 ' your Majesty's service.'

The commentary of Lord Hailes, *himself a Judge of the Court of Justiciary*, and one of the most eminent who ever adorned it, on this document, is in these terms. ' This letter gives a more lively idea of these times than a hundred chronicles can do. We see here, the Prime Minister, in order to obtain a sentence agreeable to the King, address the Judges with promises and threats, pack the jury, and then deal with them without scruple or ceremony.' He might have added, for this is the proper use of the example, that, in so far as regards the nomination of the jury, the Court of Justiciary is constituted at present exactly as it was then. We trust that days similar to those of the Stuarts will never return. But it is right to take care that, if they do, our forms of trial shall not be so well fitted as they were then for the repetition of such out-

rages. And lest it should be supposed that nothing but a general corruption of manners and of principle can ever admit of these forms being abused, we shall just give one other example, taken from a later period, but on which also posterity has already pronounced its almost unanimous judgment.

Stewart of Ardschiel was tried at Inverary, in the year 1752, for the death of Campbell of Glenure. He was convicted and executed; but it has always been held that though guilty, he was himself unlawfully slain. And how was this accomplished?—Chiefly by the power which the presiding Judge had in the appointment of the Jury. There had long been an almost deadly feud between the Stewarts and the Campbells. The Duke of Argyle, the head of the Campbells, was Lord Justice General,—a nominal office, which did not require him to act at all. But he chose to act;—and the way in which he acted was this:—There were many persons within the district who were qualified to be Jurors, who belonged neither to the one clan nor to the other. Indeed, an entire and unexceptionable Jury might have been obtained, without taking a single man from the county where the feud subsisted, or the crime was said to be committed. But there were put (whether by him or not, we cannot say), into the list of forty-five, no fewer than *twenty-five Campbells*; and of the remaining twenty, *only three were Stewarts*. Still the whole of both clans might have been left out of the Jury of fifteen, and there were enough to make an Assize. But when the trial began, his Grace named *eleven Campbells*, all from Argyleshire, as part of the Jury. Of the remaining four, *not one* was a Stewart. The result was what might have been expected. A written verdict was returned, which stated that he was convicted *unanimously*; but it was avowed at the time that three of the four who were not Campbells, differed, and expressed their difference, from the rest, but were overawed; and seeing that their resistance could do no good, where the majority was against them, allowed it to appear as an unanimous verdict, when it really was not. But suppose they had stood out, as they were unquestionably bound to do if they believed the proof deficient;—they might have saved themselves from disgrace; but still, to try a Stewart at Inverary, in the year 1752, before the Duke of Argyle, for the death of a Campbell, by a Jury of which the majority were Campbells, was a mere mockery of justice. There was so strong a feeling throughout the country of the hardships and unfairness to which the prisoner had been subjected, that a dispassionate trial, even at Inverary, was by no means hopeless. But reason and justice, law and form, argument and fact, were all equally outraged and equally vain, where it was known

that the Justice-General was to preside, and that he could pick the county for Jurors as he chose. †

As to the country being satisfied, we deny the fact to be so. It is true, that no public clamour had actually broken out; though, if the nation were polled upon this measure, we fear the country gentlemen would make but a sorry figure. But the quietness with which men, after a certain time, submit to evils to which they have been accustomed, is not to be mistaken for their holding these things not to be evils. This is not a subject calculated to strike the minds of those who are not practically and personally concerned in Courts of Justice; and therefore popular commotion, which is what seems to be wanted, is not to be expected. But we have never heard, among candid and intelligent men, who have had occasion actually to see and to feel how the machine works, *any opinion upon this matter but one*; nor have we almost ever seen a stranger present at one of our criminal trials, without observing his surprise at this part of the proceedings. ‘I regretted not having been present’ (says a late most intelligent traveller *) ‘during our residence in London, at some criminal trials; and, having mentioned it, I was obligingly invited to be present at one that took place yesterday, in the Court of Justiciary, for a case of murder. At ten o’clock in the morning, we entered a handsome modern built hall,’ &c.—and so he goes on describing the whole scene very accurately, till he comes to the naming of the Jury, when he says, ‘out of forty-five jurymen present, the presiding judge selected fifteen, from a list he had in his hand, who were empaneled for the trial of the prisoner at the bar. This selection surprised me a little, I own,’ &c. — ‘It seems to me that all persons qualified to serve on the jury should be summoned successively in alphabetical order, and draw lots in court for each new pannel.’

Nor are the sentiments of this stranger new to our own lawyers. For in spite of the tendency which all professional men

† The reader will find a full account of this shocking case in Howell’s State Trials, Vol. XIX. p. 1. It has been said that his Grace was perfectly honest in this proceeding; because, though his choice was unlucky, he did *conscientiously believe* that the Campbells were the best jurymen. We are not disposed to dispute this; but can any thing show more strikingly the folly of trusting this matter, in which prejudice or ignorance are just as hurtful as direct partiality, to the conscience of any man?

* ‘Journal of a Tour and Residence in Great Britain, &c., in 1810 and 1811, by a French Traveller.’ Vol. I. p. 361.

have, to acquiesce in any system they happen to be daily engaged with, there scarcely ever was a period at which this eminent defect has not been pointed out and acknowledged, even by those who were at once best qualified to judge, and most likely to be beset by this failing. The opinion of Sir Thomas Hamilton, the Lord Advocate in 1606, is plain, from his praying God and King James, that he may as seldom be obliged to pack a jury as may be consistent with his Majesty's service. Sir Thomas Hope, who was Lord Advocate under Charles the First, and a much more distinguished person in legal practice and learning, indicates the same opinion, by referring, with approbation, to a statute which gave prisoners, in a certain description of cases, a right 'to reject five of the assize upon suspicion of their partiality,' and even going the length of representing this as the general rule of our system. † The feeling of Lord Hailes, as applicable to more recent times, has been shown already;—and, with respect to this later age, we may refer to the positive declaration of Lord Dreghorn, a practical lawyer of great experience—the author of our most valuable collection of Criminal Cases (published in 1774), and long a Judge in the Court of Session. Speaking of peremptory challenges, he says,—‘Our practice, however, *ought* to admit of such challenges.’ ‡ He afterwards explains his reason for thinking so thus.—‘Here, it must be observed, that trial by jury is not upon so proper a footing in Scotland as it might be. Jurors do not come by rotation, but a certain set is summoned upon every trial. There is no law in this country, as in England, allowing the prisoner a power of challenging a certain number of the jurymen, without assigning any reason; and the judge selects the fifteen, a petit jury, from the forty-five; a power which may often be abused,’ &c. § He gives two instances of the bad effects of this system, with one of which he was personally acquainted; the other he had only heard of, but plainly on authority which he believed. ‘This last was the case of a prisoner, who saw, on the list, ‘the name of a man with whom he had long been on very bad terms.’ He made his counsel speak to the Judge about not naming this man. ‘His Lordship said, he would think of it, and make inquiry about the man.’ The result was precisely what must happen in most such cases, where a Court imagines that it can ever investigate these things with the success of those who are personally concerned. The juror was found to be in a respectable station of life, and this was thought enough. ‘Next morning he acquainted the coun-

† Major Practieks, p. 353.

‡ Criminal Cases, Introduction, p. 29, Note.

§ *Ib.* p. 527.

‘sel, that he was assured this man was a very intelligent person, and very proper to be put upon the jury.’—‘The consequence was fatal to the pannel. All the rest of the jurors, or at least a majority of them, were for acquitting him, and a vote passed to that purpose. Upon which this man fell to work, and, by various means, prevailed on the jury to alter, and sign a verdict contrary to their first opinion. This he accomplished, by the great influence he had over them; which was owing to his being a man of superior rank and abilities, and to his being factor on the estate of a great lord in the part of the country, whose tenants the rest of the jurors were.’

But all other opinions on this subject are superseded by the authority of one, who, of all who ever lived, had the best opportunities of knowing the exact use to which this power of the Judge was capable of being converted. We allude to Sir George Mackenzie, the Lord Advocate of Charles the Second and of James the Seventh,—a man of learning, ability, and experience, who was himself a party in most of the transactions, both political and judicial, which are thought to have stained the character of his age; who was particularly versant in the practice of our Criminal Courts, on which he wrote a valuable treatise; and the whole of whose bias was in favour of those views which are natural to a Crown lawyer. This person states, in his Vindication of Charles, that of old the Lord Advocate had the privilege of naming the Jury; whereas he prevailed on the Scotch Parliament to give it to the prisoner, by vesting him with a great number of peremptory challenges. ‘Of old, the King’s Advocate had the naming of the Jury, as being presumed disinterested; yet Sir George Mackenzie prevailed to get an Act of Parliament, whereby the nomination of the Jury was referred to the Judges. Fifteen of these forty-five only are admitted a sufficient Jury; and the defendant is allowed to challenge or reject, without giving any ground or reason for it, any thirty that he pleases of that number; and the fifteen who remain make the Jury, and are set by the Judges.’* We are perfectly aware that this statement is altogether deceptious. Whatever was the case ‘of old,’ the Lord Advocate, in his day, had not the power of naming the Jury; and Mackenzie did not get such a statute passed, which would have thrown the nomination entirely into the hands of the prisoner. The truth is, that there was never such an act;—and in his time the Judge named the Jury just as he does now. But it is these very circumstances that give peculiar force to his testimony.

* Vindication of King Charles II.’s Government.

For if the nomination by the Judge be so excellent a system, and so little liable to be abused, why did he not explain its merits manfully, and rest his defence upon it? But he is vindicating himself and his Royal Master, from the imputation of having prostituted Courts of Justice, for the attainment of political ends. He plainly felt that the mode of nominating the Jury, *which was the same then as it is now*, was so defective, that it had enabled him to get many things done which required defence; and, instead of justifying the system, he claims merit for having fairly abandoned and changed it. There is no doubt that this apology proceeds upon his confounding what he thought right, with what he had done; but still it is edifying to see the Scottish counties, under the direction of the Lord Advocate of George the Fourth, lauding and upholding that very peculiarity, which the Lord Advocate of Charles the Second selected as the proper subject of censure, and even went the length of inventing, or imagining a false statement, in order to make it appear that he had the merit of abolishing.

The reference which is made *to all other parts of our criminal jurisprudence*, is misplaced and absurd; for this, if people will only take it so, is a simple and detached measure, one of the great recommendations of which is, that, while it must virtually improve the rest of the system, it leaves the whole of its forms and principles unchanged. This is so plain, that if it had not been for the very purpose of depriving it of this recommendation, we suspect that this idle appeal to the excellence of our other rules and institutions never would have been made. This device, however, shall not have the effect of drawing us into discussions which many of our readers would not understand, and many more of them would not care for, and with which the thing we are talking of has properly no sort of connexion. However, our great object being to enable others to form their own opinion, by explaining the facts to them, we think it our duty, without entering into any examination of the defects or of the excellences of the system, to state, that the following are the distinguishing circumstances, in those parts of our Criminal jurisprudence, to which reference has been made in the course of the discussions upon this Bill.

1. Almost every prosecution in Scotland is instituted and conducted *ex officio* by the Lord Advocate. Private prosecutions are not uniformly prohibited by law, but in practice they are excessively rare; probably not above one or two in the course of several years. 2. Grand Juries are unknown. 3. When a person has once been committed by a magistrate for trial, there is no method by which, as a matter of right, he can compel his

trial to be brought on, unless he chuses to make a formal application to the Court for the benefit of a statute passed in the year 1701. But this act gives him no redress, if he be at large upon bail. He must be a *prisoner*; and not only so, but the statute does not operate his release until he has lain in jail for a period of time, which may vary, at the will of the prosecutor, *from sixty to one hundred and forty days*; but which, as the thing is managed, we should think may extend, in general, to somewhat less than 100 days. There is nothing whatever like an English gaol delivery, that sets him free at any time, *as a matter of right, by the mere operation of the law*. 4. Fifteen days, at the very least, before he is brought to trial, he must receive an articulate and unequivocal statement of the facts with which he is charged, of the forty-five Jurors who are to try them, and the witnesses and other evidence by which the case is to be proved. 5. He is always entitled to have Counsel, who address the Court and the Jury both on matters of fact and of law. If he be poor, Counsel is invariably assigned to him by the Court; and in all discussions whatever, it is the privilege of him or of his Counsel to have the last word, especially when the Crown is against him. 6. When called on for his defence, he may plead, if he pleases, that the facts set forth against him do not constitute a crime. But it is held to be the right of the Court to decide this point against him, even although there be no statute, no decision, no doctrine, making these facts an offence; and although it be admitted that they never occurred, or were never charged as criminal before; or, in other words, *the Court of Justiciary in Scotland has power to declare any facts whatever to constitute an indictable offence*; and there are some important modern examples of this being actually done. 7. It is a necessary consequence of that Court being thus entitled to declare new crimes, that it should exercise the power of applying what it conceives to be adequate punishments for these offences. It has never gone the length of inflicting a capital sentence without the authority of a statute, or of established practice, or clear analogous precedent. But we know of no other limit. It may, and does, certainly transport for fourteen years without a statute, for what it declares to be new crimes. 8. All the sentences, both of that and of all other Criminal Courts in Scotland, are *irreversible*. An appeal is competent from the Inferior Courts to the Court of Justiciary; but these inferior courts can never alter their own judgments; and the Court of Justiciary cannot, even in a case of the greatest difficulty, and where all parties consent, reconsider one of its own decisions; nor are its judgments liable to any review by any other Court in the kingdom; inasmuch that, if a sentence were, by an admitted blunder, to

discharge one man whom a verdict convicted, or to convict another whom the verdict acquitted, we know no way except a pardon, by which this sentence could be prevented from being carried into execution.

There are some of these things which will seem odd to strangers, and of which perhaps many of our own countrymen never heard. Some of them are doubtful—some excellent—some bad. The practice of giving the accused a distinct statement of the facts, the jury, and the witnesses, instead of either bringing him to the Bar, as is often done in England, so suddenly that he must be totally unprepared, or first confusing him by monstrous indictments, which expose him to every thing, and bind his opponents to nothing, and of always giving him Counsel, entitled to speak last, both on the facts and the law, cannot be mentioned in terms of too high admiration. The authority of a court of law to declare acts, never before challenged as criminal, to be offences—to fix the proper punishments for these—and to do this by irreversible sentences, seems scarcely consistent with an accurate regard to the proper limits of judicial and legislative power;—and to leave any man or any faction who may hereafter have an unconstitutional predominance in the State, too little to change in our judicial institutions, if the re-establishment of arbitrary power be their object.

But we repeat, that we wish to be understood as stating these things merely as *facts*, and not as reasoning about their merits or demerits. The only conclusions that we can draw from them, as applicable to the measure particularly in question, are, in the *first* place, that this measure has no such connexion with them as makes it right to introduce them into this discussion at all; but, in the *second* place, that if these matters are to be forced into the consideration of this Bill, then, so far from the proposed alteration being superseded and rendered unnecessary by the other peculiarities of our law, it is precisely in the law of any country where such peculiarities may happen to exist, that this Bill is peculiarly useful. For though these things might not in themselves perhaps be alarmingly questionable, yet when they are combined with an absolute nomination of the Jury, by Judges who are not only named, but are liable to be promoted, by the Crown, the whole system assumes a different appearance. It is for this very reason, that every one who understands the right application of the principle, that old institutions are not to be rashly touched, must be friendly to the success of this simple and yet renovating measure. By adopting it, every thing else may stand. The good that remains cannot possibly be hurt, and what is bad or doubtful must be corrected and improved.

ART. X. *A General View of the Progress of Metaphysical, Ethical, and Political Science, since the Revival of Letters.*
 Part II. By DUGALD STEWART Esq., F. R. SS. Lond. & Edin. &c. &c. (*Supplement to the Encyclopædia Britannica, Vol. I. Part I.*)

WE return with singular satisfaction to the continuance of this admirable Discourse, after having bestowed on the First Part a space, less indeed than its importance merited, but more ample than either the busy or the indolent part of our readers would have willingly allotted to the history of speculation.*

The increase of materials has compelled Mr Stewart, in this Continuation, to limit himself to Metaphysical Philosophy, and to reserve the progress of Moral and Political Science in the Eighteenth Century, for distinct discourses. He has thus excluded from his present work what formed the most popular, and not the least important part of the former; and, in the opinion of many, he has left himself little more than the history of controversies which will remain for ever undecided, and of revolutions, in which the mind necessarily returns to the point from which it set out. They will dispute the propriety of his very title; and deny that metaphysics have made any progress, though they have undergone many changes. Never, perhaps, since England was a lettered nation, was the disinclination to such inquiries more prevalent than it now is. There is a general disposition to acquiesce on these subjects, in a sort of practical scepticism, the result of indolence and despondency, rather than to weary the understanding in researches which seem hitherto to have yielded no fruit. These prejudices will be strengthened in the mind of many English readers, when, on opening this Essay, they see in it the naked and seemingly lifeless trunk of metaphysical speculation, stripped of those branches which display its fruitfulness while they hide its rugged forms, and not only cover it with some of their own grace and beauty, but exhibit its power of nourishing the most useful sciences, and of affording shelter and security to the most important labours of practical reason.

The study of this beautiful Discourse itself will indeed prove the best corrective of those prejudices which its title and outline may have alarmed. It required the accurate and delicate observation of Mr Stewart, to exhibit the real, though slow, amendment of opinion, and even accession to knowledge con-

cerning the human mind, in the course of the eighteenth century, by distinguishing this true progress of philosophy, in which a single step is of unspeakable importance, from those presumptuous and impotent inquiries, to which the vulgar apply the name of metaphysics, and which, in all ages, have rendered that study unacceptable to many wise men.

It must also be owned, that the former Discourse had the advantage not only of a more comprehensive plan, but of a more splendid subject than the present. The age to which it relates may justly be numbered among the grand Epochs in the progress of human knowledge. Of these epochs, four at least are conspicuous.

The *first* of them is the period of unknown antiquity, when the cultivation of knowledge began to be an exclusive occupation, and a separate profession, among those colleges of priests who, whether established on the banks of the Ganges, the Euphrates, or the Nile, appear to have been the earliest instructors of the human species. These guardians of infant science combined it with religion, and thereby rendered it venerable in the eyes of their untutored contemporaries; but at the same time enslaved it to their own superstition, and for ever stopped its progress at the point where it was bound to opinions held to be sacred and immutable. The useful institution of a distinct body of teachers, thus degenerated into a rigorous exclusion of all other men from learning; and, according to the general system of Eastern society, the first division of mental labour was followed by an hereditary monopoly. Impenetrable barriers on every side surrounded knowledge, which hindered it equally from spreading or advancing.

The *second* memorable period, is the emancipation of knowledge in Greece. It is now vain to inquire by what steps the Egyptian and Phœnician colonists, who carried the arts of civil life to the Pelasgic savages, were gradually led to forsake the peculiar institutions of their forefathers, while they preserved the inventions and manners by which society had been improved. The great revolution, which gave to civilization a freer and more flexible form among the Hellenic nations, is anterior to the dawn of authentic history. At the moment of their first appearance to us, the Eastern monopolies were overthrown; philosophy had thrown off the fetters of superstition; learning was accessible to all men; there was scarcely any separate, still less any hereditary, priesthood; and knowledge occasionally descended to some individual among that degraded body of slaves, which, by the unhappy constitution of their society, contained the greater part of mankind. Every faculty of human nature

was excited to the most intense avidity; and every part of science presented a boundless prospect of improvement. The progress of knowledge, no longer checked as in Asia by internal causes, was exposed to danger only from the political causes which affected the quiet and safety of the nations by which it was cultivated, and which finally overthrew the rude governments and feeble independence of these splendid, but turbulent and insecure communities. The structure of their society was not sufficiently strong to afford a lasting protection to the cultivation of knowledge. Greece lost both liberty and independence as soon as the Macedonians became civilized enough to learn the art of war. The Roman genius did not long survive the downfall of freedom; and universal despotism extinguished national emulation, patriotic feeling, and enterprising ambition, together with talents for literature, skill in arts, and even military spirit, throughout the civilized world. All the objects of generous pursuit which excite the activity of reason and genius, were placed at an immeasurable distance from every Roman provincial. The empire was too vast to be the country of any man; and the province in which each individual was born, was too much degraded to be regarded with complacency or pride. Mental refinement, as well as energy, had perished; and nothing but the outward appearance and vulgar enjoyments of civilization, were left to be swept away by those illustrious barbarians, who were destined to rekindle the higher principles of human nature.

The *third* period is that known by the name of the Middle Age, which comprehends the interval between the fall of ancient civilization, and the formation of that system of society which distinguishes Europe in modern times. In the earlier part of this period, the mind seemed once more about to be shackled, and learning was again threatened with Oriental bondage. Law and science were the exclusive possession of the priesthood. The whole of the little knowledge then possessed by mankind, was not too much for a single profession. An infallible church had almost imposed her yoke upon science, and seemed once more on the point of arresting its progress, by combining the principles of philosophy with the doctrines of her immutable theology. Had not the celibacy of the clergy prevented the sacerdotal office from becoming hereditary, perhaps the Asiatic system might then have been completely reestablished. But, on the contrary, as the ecclesiastical profession required labour and study, which the barbarous ignorance of the nobles disclaimed, the church was the road by which men of the lowest rank rose to the highest station, and thus became one of the demo-

cratical principles of society during the middle age. A logic, at first allowed only to defend received opinions, at length gave rise to philosophical controversies, which, disguised as they were under a barbarous jargon, contained the seeds of the deepest and boldest speculations concerning the first principles of human knowledge. The revival of the Roman jurisprudence rescued law from absolute dependence on the clergy, and raised up formidable rivals to that body; the cultivation of the vernacular language, and the study of ancient literature, diffused instruction and spirit among the laity; and the mind of man was gradually roused to that revolt against all human authority over reason, which is the grand source of subsequent improvement in science, in art, in government, and in morals.

The *fourth* epoch is that of the second emancipation of science, armed with better instruments, supplied with far more abundant materials, and secured from attack or decay by a happier order of society. The reformers, who intended only to arrange the state of theological opinion, restored man to the free exercise of reason. The innumerable inventions and discoveries which began in the middle of the fifteenth century, promoted equally the increase and the diffusion of knowledge. Civilization became impregnable; the ascendant of civilized nations over the other parts of the human species was no longer capable of being shaken; and, from the beginning of this new career of society, it became impossible to arrest its progress, or permanently to enslave the understanding.

In the general history of the human mind, the Verulamian reformation of philosophy may doubtless be regarded as a portion of that great revolution by which the fourth epoch is distinguished. But in the history of science it may, with propriety, be separated from the general movement of society, and considered apart as forming a fifth epoch in the progress of knowledge.

Columbus, Luther, and Bacon, are perhaps, in modern times, the men of whom it may be said, with the greatest probability, that, if they had not existed, the whole course of human affairs in after ages would have been varied. We formerly said so much of the genius of Bacon, and of the reformation which he effected in philosophy, that it would be vain to attempt any additional observation on that subject. But, since our former article, the most important of Bacon's writings has been illustrated by a commentary, small indeed in extent, but in our opinion of inestimable value, as it exhibits a perfect model of the method by which the whole of that great work might be adapted to the present state of science.

We allude to Mr Playfair's observations on those parts of the *Novum Organum* which relate to the various sorts of prejudice, and the comparative value of facts in physical inquiry, contained in his admirable Discourse on the Progress of the Physical and Mathematical Sciences. The phraseology of Bacon is on these subjects unhappy; his technical terms are quaint; they must have been obscure even in his own age; and they are still more unsuitable to the modes of thought as well as expression, which belong to a more advanced state of knowledge. His examples are chosen from an imperfect collection of facts, of which some were inaccurately observed, and others are now either too trivial or too obscure to carry into the mind with due force the ideas which they are intended to illustrate. As far as these faults depend on the words employed, they probably arise from the use of Latin (for of this work we have no English original), which, not being addressed to the world at large, was then likely to betray a writer into that scholastic obscurity, which had been so long the character of philosophical works in that language, and of which there is no trace in the English writings of Bacon. The commentary of Mr Playfair combines the utmost clearness with a brevity greater than that of the text; and his examples are chosen from the most striking and splendid discoveries of modern science. The following passage of that incomparable Discourse, seems to us to be a perfect specimen of such a commentary on the whole *Novum Organum*, as would perhaps be the greatest service which any individual qualified for so arduous a task could now render to philosophy.

Passing over several classes which seem of inferior importance, we come to the *instantiæ crucis*, the division of this experimental logic which is most frequently resorted to in the practice of inductive investigation. When, in such an investigation, the understanding is placed in *equilibrio*, as it were, between two or more causes, each of which accounts equally well for the appearances, as far as they are known, nothing remains to be done but to look out for a fact which can be explained by the one of these causes, and not by the other; if such a one can be found, the uncertainty is removed, and the true cause is determined. Such facts perform the office of a cross, erected at the separation of two roads, to direct the traveller which he is to take, and, on this account, Bacon gave them the name of *instantiæ crucis*.

Suppose that the subject inquired into were the motion of the planets, and that the phenomena which first present themselves, or the motion of these bodies in longitude, could be explained equally on the Ptolemaic and the Copernican system, that is, either on the system which makes the Earth, or that which makes the Sun, the

centre of the planetary motions, a cautious philosopher would hesitate about which of the two he should adopt; and, notwithstanding that one of them was recommended by its superior simplicity, he might not think himself authorized to give to it a decided preference above the other. If, however, he consider the motion of these bodies in latitude, that is to say, their digressions from the plane of the ecliptic, he will find a set of phenomena which cannot be reconciled with the supposition that the earth is the centre of the planetary motions, but which receive the most simple and satisfactory explanation from supposing that the sun is at rest, and is the centre of those motions. The latter phenomena would therefore serve as *instantiæ crucis*, by which the superior credibility of the Copernican system was fully evinced.

Another example which I shall give of an *instantia crucis* is taken from chemistry, and is, indeed, one of the most remarkable experiments which has been made in that science.

It is a general fact observed in chemistry, that metals are always rendered heavier by calcination. When a mass of tin or lead, for instance, is calcined in the fire, though every precaution is taken to prevent any addition from the adhesion of ashes, coals, &c., the absolute weight of the mass is always found to be increased. It was long before the cause of this phenomena was understood. There might be some heavy substance added, though what it was could not easily be imagined; or some substance might have escaped, which was in its nature light, and possessed a tendency upwards. Other phenomena, into the nature of which it is at present unnecessary to inquire, induced chemists to suppose, that, in calcination, a certain substance actually escapes, being present in the regulus, but not in the calx of the metal. This substance, to which they gave the name of phlogiston, was probably that which, by its escape, rendered the metal heavier, and must, therefore, be itself endued with absolute levity.

The *instantia crucis* which extricated philosophers from this difficulty, was furnished by an experiment of the celebrated Lavoisier. That excellent chemist included a quantity of tin in a glass retort, hermetically sealed, and accurately weighed together with its contents; he then applied the necessary heat; and when the calcination of the tin was finished, he found the weight of the whole precisely the same as before. This proved that no substance, which was either light or heavy, in a sensible degree, had made its way through the glass. The experiment went still farther. When the retort was cooled and opened, the air rushed in, so that it was evident that a part of the air had disappeared, or had lost its elasticity. On weighing the whole apparatus, it was now found that its weight was increased by ten grains; so that ten grains of air had entered into the retort when it was opened. The calx was next taken out, and weighed separately, and it was found to have become heavier by ten grains precisely. The ten grains of air then which had disappeared, and

which had made way for the ten grains that rushed into the retort, had combined with the metal during the process of calcination. The farther prosecution of this very decisive experiment led to the knowledge of that species of air which combines with metals when they are calcined. The doctrine of phlogiston was of course exploded, and a creature of the imagination replaced by a real existence.

‘ The principle which conducts to the contrivance of an *experimentum crucis* is not difficult to be understood. Taking either of the hypotheses, its consequences must be attempted to be traced, supposing a different experiment to be made. This must be done with respect to the other hypothesis, and a case will probably at last occur, where the two hypotheses would give different results. The experiment made in those circumstances will furnish an *instantia crucis*.

‘ Thus, if the experiment of calcination be performed in a close vessel, and if phlogiston be the cause of the increase of weight, it must either escape through the vessel, or it must remain in the vessel after separation from the calx. If the former be the case, the apparatus will be increased in weight; if the latter, the phlogiston must make its escape on opening the vessel. If neither of these be the case, it is plain that the theory of phlogiston is insufficient to explain the facts.

‘ The *experimentum crucis* is of such weight in matters of induction, that in all those branches of science where it cannot easily be resorted to (the circumstances of an experiment being out of our power, and incapable of being varied at pleasure), there is often a great want of conclusive evidence. This holds of agriculture, medicine, political economy, &c. To make one experiment, similar to another in all respects but one, is what the *experimentum crucis*, and, in general, the process of induction, principally requires; but it is what, in the sciences just named, can seldom be accomplished. Hence the great difficulty of separating the causes, and allotting to each its due proportion of the effect. Men deceive themselves in consequence of this continually, and think they are reasoning from fact and experience, when, in reality, they are only reasoning from a mixture of truth and falsehood. The only end answered by facts so incorrectly apprehended, is that of making error more incorrigible.

‘ Such were the speculations of Bacon, and the rules he laid down for the conduct of experimental inquiries, before any such inquiries had been instituted. The power and compass of a mind which could form such a plan beforehand, and trace not merely the outline, but many of the most minute ramifications, of sciences which did not yet exist, must be an object of admiration to all succeeding ages. He is destined, if, indeed, any thing in the world be so destined, to remain an *instantia singularis* among men; and, as he has had no rival in the times which are past, so is he likely to have none in those which are to come. Before any parallel to him can be found, not only must a man of the same talents be produced, but he must be

placed in the same circumstances; the memory of his predecessor must be effaced, and the light of science, after being entirely extinguished, must be again beginning to revive. If a second Bacon is ever to arise, he must be ignorant of the first.

‘ The range which Bacon’s speculations embraced was altogether immense. He cast a penetrating eye on the whole of science, from its feeblest and most infantine state, to that strength and perfection from which it was then so remote, and which it is perhaps destined to approach to continually, but never to attain. More substitutes might be found for Galileo than for Bacon. More than one could be mentioned, who, in the place of the former, would probably have done what he did; but the history of human knowledge points out nobody of whom it can be said, that, placed in the situation of Bacon, he would have done what Bacon did;—no man whose prophetic genius would have enabled him to delineate a system of science which had not yet begun to exist!—who could have derived the knowledge of what *ought to be* from what *was not*, and who could have become so rich in wisdom, though he received from his predecessors no inheritance but their errors. I am inclined, therefore, to agree with D’Alembert, “ that when one considers the sound and enlarged views of this great man, the multitude of the objects to which his mind was turned, and the boldness of his style, which unites the most sublime images with the most rigorous precision, one is disposed to regard him as the greatest, the most universal, and the most eloquent of philosophers.” ’

There is no composition on the history of the Physical and Exact Sciences, in our language, which can be compared to that of Mr Playfair in philosophical eloquence, except the noble work of his great predecessor Mr Maclaurin on the Newtonian Discoveries, which in some places rises to a true sublimity, without ever losing the serenity and clearness of philosophy.* The manner of these two great mathematicians, however, is very different; and indicates a difference in their habitual mode of contemplating science. Mr Maclaurin seems to have admired most the grandeur of nature as disclosed by philosophy; Mr Playfair to have fixed his admiration on the energy with which human reason lays open nature to our view. The manner of thinking of the former was most naturally favourable to eloquence. The second, in a more advanced state of progress, when outward nature began to be viewed with abated wonder, found a new object of admiration in those intellectual victories and conquests which had long before inspired the genius of his *master*, Bacon.

* See the concluding passage of his First Chapter, which has, in our opinion, rarely been equalled in grandeur.

It is not easy rigorously to adhere to method in the observations which we are now about to offer. Mr Stewart's Discourse is necessarily somewhat miscellaneous; and our remarks must be so in a greater degree. Our limits are much more confined; usage does not allow us to avail ourselves, to any considerable extent, of the resource of formal division; and we are not at liberty to subjoin those illustrative notes in which digression might sometimes find a convenient refuge. Among the most important subjects of the Discourse, the first, and that on which we purpose most to enlarge, relates to the genius and writings of Locke and Leibnitz, which we shall attempt to illustrate from some of their works, which Mr Stewart has, for the present, left untouched. We shall next offer some remarks on the practical tendency which he and other celebrated writers ascribe to certain speculative opinions, which we thus early own is not the part of this Discourse which we have read with the most entire assent or unmixed satisfaction; and we shall probably conclude with a very few observations on the writings of some of the modern metaphysicians of England and Scotland. On German philosophy, we think it better to say nothing than too little. We have not room to say enough; and our readers, probably, would not have patience to bear it. In the course of this criticism, we shall occasionally glean a few unnoted or little known particulars in the history of philosophy. We may sometimes supply small deficiencies, or rectify inaccuracies inevitable in the extensive range of such a work as that of Mr Stewart. We shall not always refuse ourselves the indulgence of discussing some of the opinions and arguments of which it is our chief business to take an historical review; and, on a subject to which we so seldom return as metaphysical philosophy, we shall deem ourselves entitled, if not bound, shortly to take notice of such works as have recently appeared which are connected with the subject, and have any claim on the attention of its cultivators. In those parts of our task which have been last mentioned, of which it would be hard always to determine the proper place in the most methodical composition, we reserve to ourselves some right occasionally to follow our humour, or to indulge our indolence.

At the head of the metaphysical speculations of the eighteenth century, the great names of Leibnitz and Locke are placed with indisputable propriety. Whatever may be thought of the truth of their doctrines, or of their comparative rank in philosophical genius, it cannot be doubted that they exercised the chief influence on the opinions of the succeeding age. The spirit of

every system which has since arisen, is derived, directly or indirectly, from one or other of them.

There never were, perhaps, two contemporary philosophers whose genius was so dissimilar as that of Locke and Leibnitz; and whose philosophical systems were so much at variance, not only in particular doctrines, but in general spirit and tendency. The character of Locke's writings cannot be well understood, without considering the circumstances of the writer. Educated among the English Dissenters, during the short period of their political ascendancy, he early imbibed that deep piety and ardent spirit of liberty which actuated that body of men; and he probably imbibed also, in their schools, the disposition to metaphysical inquiries which has every where accompanied the Calvinistic theology. Sects, founded in the right of private judgment, naturally tend to purify themselves from intolerance, and in time learn to respect, in others, the freedom of thought, to the exercise of which they owe their own existence. By the Independent divines who were his instructors, our philosopher was taught those principles of religious liberty which they were the first to disclose to the world.* When free inquiry led him to milder dogmas, he retained the severe morality which was their honourable singularity, and which continues to distinguish their successors in those communities which have abandoned their rigorous opinions. His professional pursuits afterwards engaged him in the study of the physical sciences, at the moment when the spirit of experiment and observation was in its youthful fervour, and when a repugnance to scholastic subtleties was the ruling passion of the scientific world. At a more mature age, he was admitted into the society of great wits and ambitious politicians. During the remainder of his life, he was often a man of business, and always a man of the world, without much undisturbed leisure, and probably with that abated relish for merely abstract speculation, which is the inevitable result of converse with society and experience in affairs. But his political connexions agreeing with his early bias, made him a

* Orme's *Memoirs of Dr Owen*, London, 1820, pp. 99—110.—In this very able volume, it is clearly proved that the Independents were the first teachers of religious liberty. The industrious, ingenious, and tolerant writer, is unjust to JEREMY TAYLOR, who had no share (as Mr Orme supposes) in the persecuting councils of Charles II. It is an important fact in the history of Toleration, that Dr Owen, the Independent, was Dean of Christchurch in 1651, when Locke was admitted a member of that College, 'under a *funatical tutor*,' as Antony Wood says.

zealous advocate of liberty, in opinion and in Government; and he gradually limited his zeal and activity to the illustration of such general principles as are the guardians of these great interests of human society. Almost all his writings (even his *Essay* itself) were occasional, and intended directly to counteract the enemies of reason and freedom in his own age. The first Letter on Toleration, the most original perhaps of his works, was composed in Holland, in a retirement where he was forced to conceal himself from the tyranny which pursued him into a foreign land; and it was published in England, in the year of the Revolution, to vindicate the Toleration Act, of which the author lamented the imperfection. ‡

His *Treatise on Government* is composed of three parts, of different character, and very unequal merit. The Confutation of Sir Robert Filmer, with which it opens, has long lost all interest, and is now to be considered as an instance of the hard fate of a philosopher who is compelled to engage in a conflict with those ignoble antagonists who acquire a momentary importance by the defence of pernicious falsehoods.

The same slavish absurdities have indeed been at various times revived. But they never have assumed, and probably never will again assume, the form in which they were exhibited by Filmer. Mr Locke's general principles of government were adopted by him, probably without much examination, as the doctrine which had for ages prevailed in the schools of Europe, and which afforded an obvious and adequate justification of a resistance to oppressive government. He delivers them as he found them, without even appearing to have made them his own by new modifications. The opinion, that the right of the magistrate to obedience is founded in the original delegation of power by the people to the government, is at least as old as the

‡ 'We have need,' says he, 'of more generous remedies than have yet been used in our distempers. It is neither declarations of indulgence, nor acts of comprehension such as have yet been practised or projected amongst us, that can do the work among us. Absolute liberty, just and true liberty, equal and impartial liberty, is the thing that we stand in need of. Now, though this has indeed been much talked of, I doubt it has not been much understood—I am sure not at all practised, either by our governors towards the people in general, or by any dissenting parties of the people towards one another.' How far are we, at this moment, from adopting these admirable principles! and with what absurd confidence do the enemies of religious liberty appeal to the authority of Mr Locke for continuing those restrictions on conscience which he so deeply lamented!

writings of Thomas Aquinas : * And in the beginning of the seventeenth century, it was regarded as the common doctrine of all the Divines, Jurists and Philosophers, who had at that time examined the moral foundation of political authority. † It then prevailed indeed so universally, that it was assumed by Hobbes as the basis of his system of universal servitude. The divine right of kingly government was a principle very little known, till it was inculcated in the writings of English Court Divines after the accession of the Stuarts. The purpose of Mr Locke's work did not lead him to inquire more anxiously into the soli-

* ' Non cujuslibet ratio facit legem, sed multitudinis, aut principis, vicem multitudinis gerentis. '—Prima Pars. Sec. Part. Sum. Theolog. Tho. Aquinat. Quest. 90. Art. 3.

† ' Opinionem jam factam Communem Omnium Scholasticorum. —Antonio de Dom. De Repub. Ecclesias. lib. vi. c. 2.

Antonio de Dominis, Archbishop of Spalato in Dalmatia, having imbibed the free spirit of Father Paul, inclined towards Protestantism, or at least towards such reciprocal concessions as might reunite the churches of the West. During Sir Henry Wolton's remarkable embassy at Venice, he was persuaded to go to England, where he was made Dean of Windsor. Finding, perhaps, the Protestants more inflexible than he expected, he returned to Rome, possibly with the hope of more success in that quarter. But, though he publicly abjured his errors, he was soon, in consequence of some free language in conversation, thrown into a dungeon, where he died. His own writings are forgotten; but mankind are indebted to him for the admirable History of the Council of Trent by Father Paul, of which he brought the MSS. with him to London.

Suarez, about the same time, states the same principle of popular delegation as the common opinion of all lawyers and theologians from the time of Aquinas.—' Dicendum ergo est, potestatem condendi leges ex solâ rei naturâ in nullo singulari homine existere, sed in hominum collectione. Hæc conclusio est Communis et certa sumitur ex D. Thom. quatenus sensit principem habere potestatem condendi leges, quam in illum transtulit communitas. '—Suarez de Leg. lib. iii. c. 2.

In the subsequent part of the same chapter, he anticipates, and, in a few words, refutes the absurd system of Filmer, who ascribes absolute power and divine right to kings as inheriting the sovereign authority of Adam. In the fourth chapter, he observes, that though men are under a moral obligation to establish civil government, yet the choice of the form is left to themselves. Although the learned Jesuit is of opinion that monarchy is the best form of government, yet he adds, ' lege naturæ non coguntur homines habere hanc potestatem in uno, vel in pluribus, vel in collectione omnium; ergo hæc determinatio necessario fieri debet arbitrio humano. '—Ib. iii. c. 4.

dity of these universally received principles; nor were there at the time any circumstances, in the condition of the country, which could suggest to his mind the necessity of qualifying their application. His object, as he says himself, was 'to establish the throne of our great Restorer, our present King William; to make good his title in the consent of the people, which, being the only one of all lawful governments, he has more fully and clearly than any prince in Christendom; and to justify to the world, the people of England, whose love of their just and natural rights, with their resolution to pre-serve them, saved the nation when it was on the very brink of slavery and ruin.'

But it was essential to his purpose to be exact in his more particular observations. That part of his work is, accordingly, remarkable for general caution, and everywhere bears marks of his own considerate mind. By calling William a 'Restorer,' he clearly points out the characteristic principle of the Revolution; and sufficiently shows that he did not consider it as intended to introduce novelties, but to defend or recover the ancient laws and liberties of the kingdom. In enumerating cases which justify resistance, he confines himself, almost as cautiously as the Bill of Rights, to the grievances actually suffered under the late reign; and where he distinguishes between a dissolution of government and a dissolution of society, it is manifestly his object to guard against those inferences which would have rendered the Revolution a source of anarchy, instead of being the parent of order and security. In one instance only, that of taxation, where he may be thought to have introduced subtle and doubtful speculations into a matter altogether practical, his purpose was to discover an immoveable foundation for that ancient principle of rendering the government dependent on the representatives of the people for pecuniary supply, which first established the English Constitution,—which improved and strengthened it in a course of ages, and which, at the Revolution, finally triumphed over the conspiracy of the Stuart Princes. If he be ever mistaken in his premises, at least his conclusions are, in this part of his work, equally just, generous, and prudent. Whatever charge of haste or inaccuracy may be brought against his abstract principles, he thoroughly weighs, and maturely considers the practical results. Those who consider his moderate plan of Parliamentary Reform as at variance with his theory of government, may perceive, even in this repugnance, whether real or apparent, a new indication of those dispositions which exposed him rather to the reproach of being an inconsistent reasoner, than to that of being a dangerous politician.

In these works, however, the nature of the subject has, in some degree, obliged most men of sense to treat them with considerable regard to consequences; though there are memorable and unfortunate examples of an opposite tendency. The metaphysical object of the *Essay on Human Understanding*, therefore, illustrates the natural bent of the author's genius more forcibly than those writings which are connected with the business and interests of men; and where some consideration of prudence and utility might have been expected from the most rash speculator.

The reasonable admirers of Locke would have pardoned Mr Stewart, if he had pronounced more decisively, that the First Book of that work is inferior to the others; and we have satisfactory proof that it was so considered by the author himself, who, in the abridgment of the *Essay* which he published in L'clerc's Review, omits it altogether, as intended only to obviate the prejudices of some philosophers against the more important contents of his work. * It must be owned, that the very terms 'Innate Ideas and Innate Principles,' together with the division of the latter into 'Speculative and Practical,' are not only vague, but equivocal; that they are capable of different senses; and that they are not always employed in the same sense throughout this discussion. Nay, it will be found very difficult, after the most careful perusal of Mr Locke's first book, to state the question in dispute clearly and shortly, in language so strictly philosophical as to be untainted by any hypothesis. As the antagonists chiefly contemplated by Mr Locke were the followers of Descartes, perhaps the only proposition for which he must necessarily be held to contend was, that the mind has no ideas which do not *arise* from impressions on the senses, or from reflections on our own thoughts and feelings. But it is certain, that he sometimes appears to contend for much more than this proposition; that he has generally been understood in a larger sense; and that, thus interpreted, his doctrine is not irreconcilable to those philosophical systems with which it has been supposed to be most at variance.

These general remarks may be illustrated by a reference to some of those ideas which are more general and important, and

* 'J'ai taché d'abord de prouver que notre esprit est au commencement ce qu'on appelle un *tabula rasa*, c'est à dire sans idées et sans connoissances. Mais comme ce n'a été que pour détruire les préjugés de quelques philosophes, j'ai cru que dans ce petit abrégé de mes principes, je devois passer toutes les disputes préliminaires qui composent le livre premier.' — *Biblioth. Universelle*, Janv. 1688.

seem more dark than any others, perhaps only because we seek in them for what is not to be found in any of the most simple elements of human knowledge.

The nature of our notion of Space, and more especially of that of Time, seems to form one of the mysteries of our intellectual being. Neither of these notions can be conceived separately. Nothing outward can be conceived without space; for it is space which gives outness to objects, or renders them capable of being conceived as outward. Nothing can be conceived to exist, without conceiving some time in which it exists. Thought and feeling may be conceived, without at the same time conceiving space; but no operation of mind can be recalled which does not suggest the conception of a portion of time, in which such mental operation is performed. Both these ideas are so clear that they cannot be illustrated, and so simple that they cannot be defined: Nor indeed is it possible, by the use of any words, to advance a single step towards rendering them more or otherwise intelligible than the lessons of nature have already made them. The metaphysician knows no more of either than the rustic. If we confine ourselves merely to a statement of the facts which we discover by experience concerning these ideas, we shall find them reducible, as has just been intimated, to the following;—namely, that they are simple; that neither space nor time can be conceived without some other conception; that the idea of space always attends that of every outward object; and that the idea of time enters into every idea which the mind of man is capable of forming. Time cannot be conceived separately from something else; nor can any thing else be conceived separately from time. If we are asked whether the idea of time be innate, the only proper answer consists in the statement of the fact, that it never arises in the human mind otherwise than as the concomitant of some other perception; and that thus understood, it is not innate, since it is always directly or indirectly occasioned by some action on the senses. Various modes of expressing these facts have been adopted by different philosophers, according to the variety of their technical language. By Kant, space is said to be the *form* of our perceptive faculty, as applied to outward objects; and time is called the *form* of the same faculty, as it regards our mental operations;—by Mr Stewart, these ideas are considered ‘as † suggested to the understanding’ by sensation or reflection, though, according to him, ‘the mind is not directly and immediately furnished’ with such ideas, either by sensation or

† Philosoph. Essays, Essay I. chap. 2.

reflection;—and, by a late eminent metaphysician, they were regarded as *perceptions*, in the nature of those arising from the senses, of which the one is attendant on the idea of every outward object, and the other concomitant with the consciousness of every mental operation. || Each of these modes of expression has its own advantages. The first mode brings forward the universality and necessity of these two notions; the second most strongly marks the distinction between them and the fluctuating perceptions naturally referred to the senses; while the last has the opposite merit of presenting to us that incapacity of being analyzed, in which they agree with all other simple ideas. On the other hand, each of them (perhaps from the imperfection of language) seems to insinuate more than the mere results of experience. The technical terms introduced by Kant have the appearance of an attempt to explain what, by the writer's own principles, is incapable of explanation. Mr Wedgwood may be charged with giving the same name to mental phenomena, which coincide in nothing but simplicity; and Mr Stewart seems to us to have opposed two modes of expression to each other, which, when they are thoroughly analyzed, represent one and the same fact.

Leibnitz, as we shall afterwards see, thought that Locke's admission of ideas of reflection furnished a ground for negotiating a reconciliation between his system, and the opinions of those who, in the etymological sense of the word, are more metaphysical; and it may very well be doubted, whether they much differed from the innate ideas of Descartes, especially as the

|| We have ventured, on this single occasion, to refer to a philosopher, little known beyond the circle of his friends—the late Mr Thomas Wedgwood, one of the most ingenious, profound, and original thinkers of this age; by whose long sufferings and untimely death the science of mind was deprived of the services of one of the very few who were qualified to enlarge its boundaries. The fruits of his meditations are unhappily lost with himself; since it would be vain for any other man to attempt to follow his footsteps along that secluded path, where, with characteristic and probably unequalled delicacy of observation, he watched the most evanescent and transient circumstances in the subtlest processes of thought. But the remembrance of his affection and generosity, the higher part of his nature, and the paramount objects of his life, will always be fresh in the hearts of those from whom his modesty could not hide their unwearied activity. A just and singularly beautiful account of the character of this admirable person, is to be found in a late edition of the *Biographia Literaria* of Mr Coleridge; but the eloquent writer has (for what reason we know not) omitted the name of Mr Wedgwood.

latter philosopher explained the term, when he found himself pressed by acute objectors. * 'I never said or thought,' says Descartes, 'that the mind needs innate ideas, which are something different from its own faculty of thinking; but, as I observed certain thoughts to be in my mind, which neither proceeded from outward objects, nor were determined by my will, but merely from my own faculty of thinking, I called these innate ideas, to distinguish them from such as are either adventitious (*i. e.* from without), or compounded by our imagination. I call them innate, in the same sense in which generosity is innate in some families, gout and stone in others; because the children of such families come into the world with a disposition to such virtue, or to such maladies.' § In a letter to Mersenne, || he says, 'by the word *idea*, I understand all that can be in our thoughts, and I distinguish three sorts of ideas;—*adventitious*, like the common idea of the sun; *framed* by the mind, such as that which astronomical reasoning gives us of the sun; and *innate*, as the idea of God, mind, body, a triangle, and generally all those which represent true, immutable, and eternal essences.' It must be owned, that, however nearly the first of these representations may approach to Mr Locke's ideas of reflection, the second deviates from them very widely, and is not easily reconcilable with the first. The comparison of these two sentences, strongly impeaches the steadiness and consistency of Descartes in the fundamental principles of his system.

A principle in science is a proposition from which many other propositions may be inferred. That principles, taken in this sense of propositions, are part of the original structure or

* Notæ in *Programma cui titulus Explicatio Mentis Humanæ*, 1647. The two propositions, against which the passage in the text is directed, are the following—'Mens non indiget ideis innatis, sed sola ejus facultas cogitandi ipsi ad actiones suas peragendas sufficit. Atque ideo omnes communes notiones menti insculptæ ex rerum observatione vel traditione, originem ducunt.'

§ This remarkable passage of Descartes is to be found in a French translation of the *Programma* and *Notes*, probably by himself. *Lettres de Descartes*, I. Lett. 99. It is justly observed by one of his most acute antagonists, that Descartes does not steadily adhere to this sense of the word 'innate,' but varies it in the exigencies of controversy, so as to give it at each moment the import which best suits the nature of the objection with which he has then to contend.

—*Huet. Censur. Phil. Cartes.* 93.

|| Lett. de Descartes, II. Lett. 54.

furniture of the human mind, is an assertion so unreasonable, that perhaps no philosopher has avowedly or at least permanently, adopted it. But it is not to be forgotten, that there must be certain general laws of perception, or ultimate facts respecting that province of mind, beyond which human knowledge cannot reach. Such facts bound our researches in every part of knowledge, and the ascertainment of them is the utmost possible attainment of science. Beyond them there is nothing, or at least nothing discoverable by us. These observations, however universally acknowledged when they are stated, are often hid from the view of the system-builder when he is employed in rearing his airy edifice. There is a common disposition to exempt the philosophy of the human understanding from the dominion of that irresistible necessity which confines all other knowledge within the limits of experience; arising probably from a vague notion that the science, without which the principles of no other are intelligible, ought to be able to discover the foundation even of its own principles. Hence the question among the German metaphysicians, '*What makes experience possible?*' Hence the very general indisposition among metaphysicians to acquiesce in any mere fact as the result of their inquiries, and to make vain exertions in pursuit of an explanation of it, without recollecting that the explanation must always consist of another fact, which must either equally require another explanation, or be equally independent of it. There is a sort of sullen reluctance to be satisfied with ultimate facts, which has kept its ground in the theory of the human mind long after it has been banished from all other sciences. Philosophers are, in this province, often led to waste their strength in attempts to find out what supports the foundation; and, in these efforts to prove first principles, they inevitably find that their proof must contain an assumption of the thing to be proved, and that their argument must return to the point from which it set out.

Mental philosophy can consist of nothing but facts; and it is at least as vain to inquire into the cause of thought, as into the cause of attraction. What the number and nature of the ultimate facts respecting mind may be, is a question which can only be determined by experience: and it is of the utmost importance not to allow their arbitrary multiplication, which enables some individuals to impose on us their own erroneous or uncertain speculations as the fundamental principles of human knowledge. No general criterion has hitherto been offered, by which these last principles may be distinguished from all other propositions. Perhaps a practical standard of some convenience would be, *that all reasoners should be required to ad-*

mit every principle of which the denial renders reasoning impossible. This is only to require that a man should admit, in general terms, those principles which he must assume in every particular argument, and which he has assumed in the very argument which he has employed against their existence. It is, in other words, to require that a disputant shall not contradict himself;—for every argument against the fundamental laws of thought absolutely assumes their existence in the premises, while it totally denies it in the conclusion.

Whether it be among the ultimate facts in human nature, that the mind is disposed or determined to assent to some propositions, and to reject others, when they are first submitted to its judgment, without inferring their truth or falsehood from any process of reasoning, is manifestly as much a question of mere experience as any other which relates to our mental constitution. It is certain that such inherent inclinations may be conceived, without supposing the ideas of which the propositions are composed to be, in any sense, innate; if, indeed, that unfortunate word be capable of being reduced by definition to any fixed meaning. 'Innate,' says Lord Shaftesbury, 'is the word Mr Locke poorly plays with: the right word, though less used, is connate. The question is not about the time when the ideas enter the mind, but, whether the constitution of man be such, as at some time or other (no matter when), the ideas will not necessarily spring up in him.' These are the words of Lord Shaftesbury in his Letters, which, not being printed in any edition of the Characteristics, are less known than they ought to be; though, in them, the fine genius and generous principles of the writer are less hid by occasional affectation of style, than in any other of his writings.*

The above observations apply with still greater force to what Mr Locke calls 'Practical Principles.' Here, indeed, he contradicts himself; for, having built one of his chief arguments against other speculative or practical principles, on what he thinks the incapacity of the majority of mankind to entertain those very abstract ideas, of which these principles if innate would imply the presence in every mind; he very inconsistently admits the existence of one innate practical principle, 'a desire of happiness, and an aversion to misery,' † without

Dr Lee, an antagonist of Mr Locke, has stated the question of innate ideas more fully than Shaftesbury, or even Leibnitz. He has also anticipated some of the reasonings of Buffier and Reid.

Lee's Notes on Locke, folio, London, 1702.

Essay on Hum. Underst. book 1. c. 3. § 3.

considering that happiness and misery are also abstract terms, which excite very indistinct conceptions in the minds of 'a great part of mankind.' It would be easy also to show, if this were a proper place, that the desire of happiness, so far from being an innate, is not even an original principle; that it presupposes the existence of all those particular appetites and desires of which the gratification is pleasure, and also the exercise of that deliberate reason which habitually examines how far each gratification, in all its consequences, increases or diminishes that sum of enjoyment which constitutes happiness. If that subject could be now fully treated, it would appear, that this error of Mr Locke, or another equally great, that we have only one practical principle, the desire of pleasure, is the root of most false theories of morals; and that it is also the source of many mistaken speculations on the important subjects of Government and Education, which at this moment mislead the friends of human improvement, and strengthen the arms of its enemies. But morals fell only incidentally under the consideration of Mr Locke; and his errors on that greatest of all sciences were the prevalent opinions of his age, which cannot be justly called the principles of Hobbes, though that extraordinary man had alone the boldness to exhibit these principles in connexion with their odious but strictly logical consequences.

The exaggerations of this First Book, however, afford a new proof of the author's steady regard to the highest interests of mankind. He justly considered the free exercise of reason as the highest of these, and that on the security of which all the others depend. The circumstances of his life rendered it a long warfare against the enemies of freedom in philosophizing, freedom in worship, and freedom from every political restraint which necessity did not justify. In his noble zeal for liberty of thought, he dreaded the tendency of a doctrine which might 'gradually prepare mankind to swallow that for an innate principle which may suit his purpose who teacheth them.'* He may well be excused, if, in the ardour of his generous conflict, he sometimes carried beyond the bounds of calm and neutral reason, his repugnance to doctrines which, as they were then generally explained, he justly regarded as capable of being employed to shelter absurdity from detection, to stop the progress of free inquiry, and to subject the general reason to the authority of a few individuals. Every error of Mr Locke in speculation, may be traced to the influence of some virtue; at least every error except some of the erroneous opinions generally

* Essay, Book I. c. 4. § 24.

received in his age, which, with a sort of passive acquiescence, he suffered to retain their place in his mind.

It is with the Second Book that the Essay on Human Understanding properly begins; and this book is the first considerable contribution in modern times towards the † experimental philosophy of the human mind. The road was pointed out by Bacon; and, by excluding the fallacious analogies of thought to outward appearance, Descartes may be said to have marked out the limits of the proper field of inquiry. But, before Locke, there was no example in intellectual philosophy of an ample enumeration of facts, collected and arranged for the express purpose of legitimate generalization. He himself tells us, that his purpose was, ‘in a plain historical method, to give an account of the ways by which our understanding comes to attain those notions of things we have.’ In more modern phraseology, this would be called an attempt to ascertain, by observation, the most general facts relating to the origin of human knowledge. There is something in the plainness, and even homeliness of Locke’s language, which strongly indicates his very clear conception, that experience must be his sole guide, and his unwillingness, by the use of scholastic language, to imitate the example of those who make a show of explaining facts, while in reality they only ‘darken council by words without knowledge.’ He is content to collect the laws of thought, as he would have collected those of any other object of physical knowledge, from observation alone. He seldom embarrasses himself with physiological hypotheses, * or wastes his strength on those insolu-

† This word ‘experimental,’ has the defect of not appearing to comprehend the knowledge which flows from observation, as well as that which is obtained by experiment. The German word ‘*empirical*,’ is applied to all the information which experience affords; but it is in our language degraded by another application. We therefore must use ‘*experimental*’ in a larger sense than its etymology warrants.

* A stronger proof can hardly be required than the following sentence, of his freedom from physiological prejudice. ‘This laying up of our ideas in the repository of the memory, signifies no more, but this, that the mind has the power in many cases to revive perceptions, with another perception annexed to them, that it has had them before.’ The same chapter is remarkable for the exquisite, and almost poetical beauty, of some of its illustrations. ‘Ideas quickly fade, and often vanish quite out of the understanding, leaving no more footstep or remaining characters of themselves than shadows do flying over a field of corn.’—‘The ideas, as well as children of our youth, often die before us, and our minds represent to us those

ble problems which were then called metaphysical. Though, in the execution of his plan, there are many and great defects, the conception of it is entirely conformable to the Verulamian method of induction, which, even after the fullest enumeration of particulars, requires a cautious examination of each subordinate class of phenomena, before we attempt, through a very slowly ascending series of generalizations, to soar to comprehensive laws. 'Philosophy,' as Mr Playfair excellently renders Bacon, 'has either taken much from a few things, or too little from a great many; and in both cases has too narrow a basis to be of much duration or utility.' Or, to use the very words of the Master himself—'We shall then have reason to hope well of the sciences, when we rise by continued steps from particulars to inferior axioms; and then to the middle,—and only at last to the most general.'—*Nov. Org. Lib. I. § civ.* It is not so much by an appeal to experience, (for some degree of that appeal is universal), as by the mode of conducting it, that the followers of Bacon are distinguished from the framers of hypotheses. It is one thing to borrow from experience just enough to make a supposition plausible; it is quite another to take from it all that is necessary to be the foundation of just theory.

In this respect perhaps, more than in any other, the philosophical writings of Locke are contradistinguished from those of Hobbes. That extraordinary man saw, with astonishing rapidity of intuition, some of the simplest and most general facts which may be observed in the operations of the understanding; and perhaps no man ever possessed the same faculty of conveying his abstract speculations in language of such clearness, precision, and force, as to engrave them on the mind of the reader. But he did not wait to examine whether there might not be other facts equally general relating to the intellectual powers; and he therefore 'took too little from a great many things.' He fell into the double error of hastily applying his general laws to the most complicated processes of thought, without considering whether these general laws were not themselves limited by other

tombs to which we are approaching; where, though the brass and marble remain, yet the inscriptions are effaced by time, and the imagery moulders away. Pictures drawn in our minds are laid in fading colours, and, unless sometimes refreshed, vanish and disappear. — *Book II. Chap. 10.* This pathetic language must have been inspired by experience; and, though Locke could not have been more than fifty-six when he wrote these sentences, it is too well known that the first decays of memory may be painfully felt long before they can be detected by the keenest observer.

not less comprehensive laws, and without trying to discover how they were connected with particulars, by a scale of intermediate and secondary laws. This mode of philosophizing was well suited to the dogmatic confidence and dictatorial tone * which belonged to the character of the philosopher of Malmesbury, and which enabled him to brave the obloquy attendant on singular and obnoxious opinions. 'The plain historical method,' on the other hand, chosen by Mr Locke, produced the natural fruits of caution and modesty; taught him to distrust hasty and singular conclusions; disposed him, on fit occasions, to entertain a mitigated scepticism; and taught him the rare courage to make an ingenuous avowal of ignorance. This contrast is one of our reasons for doubting whether Locke be much indebted to Hobbes for his speculations; and certainly the mere coincidence of the opinions of two metaphysicians is slender evidence, in any case, that either of them have borrowed his opinions from the other. Where the premises are different, and they have reached the same conclusion by different roads, such a coincidence is scarcely any evidence at all. Locke and Hobbes agree chiefly on those points in which, except the Cartesians, all the speculators of their age were also agreed. They differ on the most momentous questions—the sources of knowledge, the power of abstraction, the nature of the will; on the two last of which subjects, Locke, by his very failures themselves, evinces a strong repugnance to the doctrines of Hobbes. They differ not only in all their premises, and many of their conclusions, but in their manner of philosophizing itself. Locke had no prejudice which could lead him to imbibe doctrines from the enemy of liberty and religion. His style, with all its faults, is that of a man who thinks for himself; and an original style is not usually the vehicle of borrowed opinions.

We have said more than we intended on Mr Locke's Essay, or on subjects which that Essay has suggested. Few books

* 'If I am not mistaken, the distinguishing character of Lucretius (I mean of his soul and genius) is a certain kind of noble pride, and positive assertion of his opinions. He is everywhere confident of his own reason, and assumes an absolute command, not only over his readers, but even his patron Memmius. From his time to ours, I know none so like him as our poet and philosopher of Malmesbury. — Dryden, Pref. to Second Misc. which contains Translations from Lucretius.

Though it is an act of remarkable good nature in Dryden to call Hobbes a poet, yet his translations of the Iliad and Odyssey are perhaps the only long works in verse ever undertaken by any man in the eight-sixth year of his age.

have contributed more to rectify prejudice—to undermine established errors—to diffuse a just mode of thinking—to excite a fearless spirit of inquiry—and yet to contain it within the boundaries which nature has prescribed to the human understanding. An amendment of the general habits of thought is, in most parts of knowledge, an object as important as even the discovery of new truths, though it is not so palpable, nor in its nature so capable of being estimated by superficial observers. In the mental and moral world, which scarcely admits of any thing which can be called discovery, the correction of the intellectual habits is probably the greatest service which can be rendered to science. In this respect, the merit of Locke is unrivalled. His writings have diffused throughout the civilized world the love of civil liberty—the spirit of toleration and charity in religious differences—the disposition to reject whatever is obscure, fantastic, or hypothetical in speculation—to reduce verbal disputes to their proper value—to abandon problems which admit of no solution—to distrust whatever cannot be clearly expressed—to render theory the simple expression of facts—and to prefer those studies which most directly contribute to human happiness. If Bacon first discovered the rules by which knowledge is improved, Locke has most contributed to make mankind at large observe them. He has done most, though often by remedies of silent and almost insensible operation, to cure those mental distempers which obstructed the adoption of these rules; and thus led to that general diffusion of a healthful and vigorous understanding, which is at once the greatest of all improvements, and the instrument by which all other improvements must be accomplished. He has left to posterity the instructive example of a Prudent Reformer, and of a philosophy temperate as well as liberal, which spares the feelings of the good, and avoids direct hostility with obstinate and formidable prejudice. These benefits are very slightly counterbalanced by some political doctrines liable to misapplication, and by the scepticism of some of his ingenious followers—an inconvenience to which every philosophical school is exposed, which does not steadily limit its theory to a mere exposition of experience. If Locke made few discoveries, Socrates made none. Yet both did more for the improvement of the understanding, and not less for the progress of knowledge, than the authors of the most brilliant discoveries. Mr Locke will ever be regarded as one of the great ornaments of the English nation; and the most distant posterity will speak of him in the language addressed to him by the poet—

O Decus Angliæ certe, o Lux altera gentis!

Gray, De Princ. Cogitant

The Treatise on the Law of War and Peace, the Essay on Human Understanding, the Spirit of Laws, and the Inquiry into the Causes of the Wealth of Nations, are the works which have most directly influenced the general opinion of Europe during the two last centuries. They are also the most conspicuous landmarks in the progress of the sciences to which they relate. It is remarkable that the defects of all these great works are very similar. The leading notions of none of them can, in the strictest sense, be said to be original, though Locke and Smith in that respect surpass their illustrious rivals. All of them employ great care in ascertaining those laws which are immediately deduced from experience, or directly applicable to practice; but apply metaphysical and abstract principles with considerable negligence. None pursues the order of science, beginning with first elements, and advancing to more and more complicated conclusions; though Locke is perhaps less defective in method than the rest. All admit digressions which, though often intrinsically excellent, distract attention, and break the chain of thought. None of them are happy in the choice, or constant in the use, of technical terms; and in none do we find much of that rigorous precision which is the first beauty of philosophical language. Grotius and Montesquieu were imitators of Tacitus,—the first with more gravity—the second with more vivacity; but both were tempted to forsake the simple diction of science, in pursuit of the poignant brevity which that great historian has carried to a vicious excess. Locke and Smith chose an easy, clear and free, but somewhat loose and verbose, style—more concise in Locke—more elegant in Smith,—in both exempt from pedantry, but not void of ambiguity and repetition. Perhaps all these apparent defects contributed in some degree to the specific usefulness of these great works; and, by rendering their contents more accessible and acceptable to the majority of readers, have more completely blended their principles with the common opinions of mankind.

Before we proceed to the consideration of the writings of Leibnitz, we cannot deny ourselves the pleasure of inserting in this place (with whatever departure from order) two letters between Sir Isaac Newton and Mr Locke, published, for the first time, in this Discourse, which bear equal testimony to the meekness and humility of one of these great philosophers, and to the generous forgiveness of the other.

Sir Isaac Newton, himself an intimate friend of Locke's, appears, from a letter of his which I have read in his own handwriting, to have felt precisely in the same manner with the author of the *Characteristics*. Such, at least, were his first impressions; although

he afterwards requested, with a humility and candour worthy of himself, the forgiveness of Locke for this injustice done to his character. "I beg your pardon (says he) for representing that you struck at the root of morality in a principle you laid down in your book of *Ideas*, and designed to pursue in another book; and that I took you for a Hobbist." In the same letter, Newton alludes to certain unfounded suspicions which he had been led to entertain of the propriety of Locke's conduct in some of their private concerns; adding, with an ingenuous and almost infantine simplicity, "I was so much affected with this, that when one told me you was sickly and would not live, I answered, 'twere better if you were dead. I desire you to forgive me this uncharitableness." The letter is subscribed, *your most humble and most unfortunate servant, Is. Newton.*

The rough draught of Mr Locke's reply to these afflicting acknowledgments was kindly communicated to me by a friend some years ago. It is written with the magnanimity of a philosopher, and with the good-humoured forbearance of a man of the world; and it breathes throughout so tender and so unaffected a veneration for the good as well as great qualities of the excellent person to whom it is addressed, as demonstrates at once the conscious integrity of the writer, and the superiority of his mind to the irritation of little passions. I know of nothing from Locke's pen which does more honour to his temper and character; and I introduce it with peculiar satisfaction, in connexion with those strictures which truth has extorted from me on that part of his system which, to the moralist, stands most in need of explanation and apology.

MR LOCKE TO MR NEWTON.

"SIR,

"Oates, 5th October, 93.

"I have been ever since I first knew you so kindly and sincerely your friend, and thought you so much mine, that I could not have believed what you tell me of yourself, had I had it from any body else. And though I cannot but be mightily troubled that you should have had so many wrong and unjust thoughts of me, yet, next to the return of good offices, such as from a sincere good will I have ever done you, I receive your acknowledgment of the contrary as the kindest thing you could have done me, since it gives me hopes I have not lost a friend I so much valued. After what your letter expresses, I shall not need to say any thing to justify myself to you: I shall always think your own reflection on my carriage both to you and all mankind will sufficiently do that. Instead of that, give me leave to assure you, that I am more ready to forgive you than you can be to desire it; and I do it so freely and fully that I wish for nothing more than the opportunity to convince you that I truly love and esteem you; and that I have still the same good will for you as if nothing of this had happened. To confirm this to you more fully, I should be glad to meet you anywhere, and the rather, because the conclusion of your letter makes me apprehend it would not be whol-

ly useless to you. I shall always be ready to serve you to my utmost, in any way you shall like, and shall only need your commands or permission to do it.

" My book is going to press for a second edition ; and, though I can answer for the design with which I writ it, yet, since you have so opportunely given me notice of what you have said of it, I should take it as a favour if you would point out to me the places that gave occasion to that censure, that, by explaining myself better, I may avoid being mistaken by others, or unwillingly doing the least prejudice to truth or virtue. I am sure you are so much a friend to both, that, were you none to me, I could expect this from you. But I cannot doubt but you would do a great deal more than this for my sake, who, after all, have all the concern of a friend for you, wish you extremely well, and am, without compliment," &c. &c.

' (For the preservation of this precious memorial of Mr Locke, the public is indebted to the descendants of his friend and relation the Lord Chancellor King, to whom his papers and library were bequeathed. The original is still in the possession of the present representative of that noble family ; for whose flattering permission to enrich my Dissertation with the above extracts, I feel the more grateful, as I have not the honour of being personally known to his Lordship.)'

The genius of Leibnitz, as well as the character of his philosophy, was diametrically opposite to that of Locke. Their names are the most conspicuous in the two schools of philosophy, which, for want of better names, may be called *Experimental* and *Speculative* ; though some of their followers have gone nearer to both extremes than their masters, while others have remained at various points in the space between them. The tendency of Leibnitz's mind was wholly speculative. He applied the whole force of his understanding to the first principles of knowledge, and almost disregarded those subordinate laws which immediately regulate the phenomena. Though one of the greatest mathematicians of his age, he partook in a very small degree its experimental spirit. Singular as it may seem, this highly abstract character of his system inclined his mind to tolerate, and almost to acquiesce, in most received opinions. It is a favourite maxim, which he often repeats, '*that most received doctrines will bear a good sense.*'* By a good sense, he means a construction which makes them reconcilable with his philosophy. His object, not being to correct particular opinions, but to make proselytes to his general principles, he was always ready to conclude a peace with powerful prejudices. Hence, the Leibnitzian system is full of accommodation and

* *Nouv. Ess.* liv. i. chap. 2.

compromise with popular opinion, while it deviates most widely from the general principles of former philosophers; and this peculiarity is in part the cause of his often conveying his doctrines in no very clear terms, where perspicuity might have embarrassed his negotiations with prejudice. Though Leibnitz was not insincere, the tendency of this mode of philosophizing is towards indistinct opinions and equivocal language. Mr Locke, on the other hand, the tendency of whose philosophy was practical, could make no compromise with established errors; for he gained nothing unless he corrected general opinion on important points.

It does not seem to be generally known, at least in this country, that Leibnitz actually composed a work which was intended to be an answer to the *Essay on Human Understanding*. This very important work is not contained in Dutens's edition of his works, and for that reason, perhaps, does not appear to have been known to Mr Stewart. It was published at Amsterdam in 1765 by Raspe, from Leibnitz's manuscripts in the library at Hanover, under the title of '*New Essays on the Human Understanding*.'

It consists of a series of remarks on Locke, whom he examines, chapter by chapter, and was written, as he tells us, when he was either travelling, or at Herenhausen with the Court of Hanover.* One reason of his opposition to Mr Locke he says was, that the latter philosopher 'weakened too much the *general philosophy* of the Platonists, which Descartes had in part restored, and had substituted for it opinions which lowered mankind, and even injured morality, contrary to the intention of the author, which was very good.' Another general observation of Leibnitz coincides remarkably with the remarks in the present Discourse, on the difference between the philosophy of Mr Locke and that of Gassendi. 'Perhaps the opinions of our able author are not so far from mine as they appear to be.' For, after having employed the whole of his first book against innate knowledge, taken in a certain sense, he acknowledges, in the beginning of the second, that there are

* *Nouv. Ess. sur l'Entendement Humain*, Amsterdam, 1765, Preface, p. xii. This work is mentioned by Leibnitz in his second letter to Remond in Dutens's edition, vol. ii. Some short remarks of the same nature he had before sent to Mr Burnet of Kemnay; Dutens, vi. 292. These last Mr Locke saw and slighted, see his Letter to Mr Molyneux, 10th April 1697. They are printed in his works, and are indeed very cursory; Locke's Works, iii. 561. folio, London, 1714.

‘ ideas which do not originate from the senses, but which arise from reflection. Now, reflection is nothing but attention to that which passes within us; and the senses do not convey to us what we already possess within ourselves. Can it then be denied that there is much innate in the mind ? The mind is itself innate, and there are included in it substance, duration, change, action, perception, pleasure, and a thousand other objects of our intellectual ideas. These objects being always present to our understandings (though from distractions and wants we are not always conscious of them), why should it be thought wonderful that we should call the ideas, with all that depends upon them, innate ? ’ (p. 7). ‘ The ideas of existence, of possibility, of identity, are so evidently innate, that they enter into all our thoughts and reasonings, and I consider them as essential to our understanding,’ (p. 58.) ‘ The axiom received among philosophers will be objected to me, that *there is nothing in the understanding which does not come from the senses*. But we must except the understanding itself and its affections (*i.e.* its properties). But the mind contains existence, substance, the one, the same, cause, perception, reasoning, and many other notions which the senses cannot give. *This agrees pretty well with the author of the Essay, who ascribes a considerable part of our ideas to the reflection of the mind on its own nature.*’ (p. 67). ‘ *All the primitive truths, either of reason or of fact, have this in common, that they cannot be proved by any thing more certain.*’ † (p. 331).

The coincidence of some of these remarks, with those of Mr Stewart on the Essay on Human Understanding, and of others of them with the doctrines of the modern opponents of Mr Locke, cannot fail to attract the attention of those who are conversant with metaphysical controversies. The language is very different; the writers are trained in different schools, and have reached their conclusions by different roads. There is no suspicion of plagiarism. But the opinions and reasonings have a strong resemblance to each other. We shall venture on one or two more extracts from a book which is very rare, as well as important in the history of philosophy.

‘ The reality of sensible objects is sufficiently established by the connexion of constant observation. As reason and observation give us the means of judging of the future in its relation to our *self*, and as the events correspond with our reasonable judg-

† The primitive truths of reason in the system of Leibnitz are identical propositions.

'ments, we can neither ask nor have a greater certainty on these subjects. *To doubt seriously, is to doubt in relation to practice.*' (p. 412.) 'It is not impossible; metaphysically speaking, that there should be a dream as durable and connected as the life of man; but it is a supposition as contrary to reason, as that of a book formed by throwing types in a dice-box. * And it is true, that, provided the phenomena are connected, it is of no consequence whether they are called dreams or not, since experience shows that we are not disappointed in the measures which we take concerning phenomena, when these measures are founded on the principles of reason.' (p. 389.) It is curious to observe, in these last passages, how clearly Leibnitz foresaw such an opposition as that of Berkeley to the existence of matter, and how low he rated the practical consequences of the question. He did not, like Dr Johnson, suppose that striking his foot against a stone was a refutation of idealism; nor did he, like Dr Beattie, imagine that the idealist, if he were consistent with himself, should have no fear of falling over a precipice. He saw that, in the ideal theory, the distinction between reality and illusion is as clear as in any other account of the origin of our perceptions, though there is some difference in the terms which were employed to denote that distinction. The idealist, indeed, is no more to be charged with inconsistency for complying with common language, than the Copernican who says that the sun rises and sets. Many of the expressions of Leibnitz on this subject, have a striking resemblance to the admirable deductions of *Turgot*, contained in the article *EXISTENCE* in the *Encyclopædia*.

The extreme difficulty which Mr Stewart feels in entering into the notion of *Monads*, seems to us somewhat singular, especially considering the manner in which he speaks of the indivisible points or centres of attraction and repulsion, which, according to the system of Boscovich, constitute the material world. † It is not easy to discover such a distinction between

* This observation is rather indicative of the compromising spirit of Leibnitz than of his real opinion.

† See Boscovich's Supplements to the ingenious poem of *Stay*, 1755. That these two philosophical Jesuits enjoyed professorships at Rome, and that the *Principia* of Newton were published there by Papal permission, are honourable proofs that the spirit of toleration had made great progress in Italy since the time of Galileo. A system of Ethics, founded on the principles of English philosophers, has appeared at Rome within these two years. It is written by *Sebastiani*, the editor of *Lycophron*, and deserves to be mentioned; not only for its own merit and singularity, but as a creditable example of the liberal administration of the Roman State.

these two modes of thinking or of speaking, as will justify us in considering that of Boscovich as admissible, and treating that of Leibnitz as wholly inconceivable. The external world, in the opinion of Leibnitz, is only a '*series of regular and connected phenomena*.' These phenomena consist in the action and reaction of the parts of what is called Matter on each other. Every part acts on every other part—every action affects the whole; or, in other words, the state of no part remains the same, when that of any other is changed. These reciprocal actions Leibnitz referred to certain agents analogous to the thinking principle of man in their simplicity, and endowed with what he calls *Perception*; but which, as he restricts it, seems to be only the power of being so acted on by other agents as to exhibit the material phenomena. He says, indeed, that they represent the whole universe, or that each is a mirror of the whole; but these phrases amount only to this, that all the parts of the universe are connected, and that an intellect of sufficient power would discover in each the manner in which it is affected by the changes of all the rest. 'Each monade,' says Kaestner,† 'represents the world only as a thermometer represents the warmth, or a barometer the weight, of the atmosphere.' We do not contend for the truth, still less for the usefulness, of these representations. But they seem to us intelligible; and the language is not more objectionable than that of Boscovich, when he tells us that '*points are endowed with powers of attraction and repulsion*.' The truth is, that the Leibnitzian philosophy is a system of immaterialism, though differently modified from that of Berkeley, and deduced from different principles. If Mr Stewart has any quality which has an unfavourable influence on his mind as an historian of philosophy, perhaps it is that honest and steady adherence to his own principles which renders him incapable of the momentary assumption of the opinions of other men, which is often necessary faithfully to represent, or even perfectly to conceive them.

We do not intend to make any observation on the atheistical or pantheistical system of Spinoza; but, as a matter of historical curiosity, to point out two mistakes into which Mr Stewart has fallen in his account of that celebrated Jew. He supposes that those writers who ascribe a Hebrew origin to Spino-

† *Nouv. Ess.* Preface, p. vi.—Abraham Kaestner, who wrote this able Preface, was a distinguished mathematician and professor of mathematics, for nearly half a century, at Göttingen, where he died in 1800, at the age of eighty-one, probably the last Leibnitzian in Europe.

zism, mean thereby to impute its rise to the immorality of the author's countrymen at Amsterdam. The fact is, that the most ancient Rabbinical philosophy, which, like many other Oriental speculations, had a tendency towards pantheism, is generally, as well as reasonably, supposed to have influenced the opinions of Spinoza. Neither is it true, as is here asserted, * that the political opinions of Spinoza coincided with those of Hobbes. On the contrary, he inclines against monarchy; † he observes, that as one man cannot really rule a multitude, the most absolute monarchy becomes a practical aristocracy in the hands of the ministers and advisers of the king; and that monarchy is then most secure, when it is so constituted as to direct its administration to the public good. Some of his limitations of monarchical power are indeed fantastic. His arguments in favour of a large aristocracy, ‡ which he commends as the form of government *most favourable to liberty*, are ingenious, and, as far as relate to a comparison with absolute monarchy, perfectly solid. His chapter on Democracy is unfinished. It contains nothing very remarkable, but a formal argument in defence of the exclusion of women from political privileges. There is another most material question, concerning which Spinoza differs radically from Hobbes. In the eyes of the philosopher of Malmesbury, the religion of each country depends absolutely on the sovereign. Not content with regarding an established Church as a creature of the State, he considers belief in the doctrines, or divine authority of religion itself, as an act of obedience due to the supreme power. Open dissent is with him rebellion. § Spinoza, on the other hand, not content with contending for toleration, of which his experience in Holland had taught him the benefits, objected altogether to an established church; a circumstance the more deserving of notice, because we believe him to be the earliest writer who opposed religious establishments on grounds of general policy, ||

* Disc. p. 75, Note.

† Servitutis igitur non pacis interest omnem potestatem ad unum transferre; nam pax ut jam diximus non in belli privatione, sed in animorum unione consistit. *Tract. Pol. cap. vi. § 4.*

‡ Cap. viii.

† Cap. xi.

§ Leviathan, Part iii.

|| Ad religionem quod attinet, nulla planè templa urbium sumptibus edificanda, nec jura de opinionibus statuenda, nisi seditiosæ sint et civitatis fundamenta evertant. Il igitur quibus religionem publice exercere conceditur, templum si velint suis sumptibus ædificent. *Tract. Politic. cap. vi. § 40.* The general reason is assigned in the

which are wholly unconnected in argument with his own anti-religious opinions.

It would be inexcusable to revive the mention of such a controversy as that which relates to Liberty and Necessity, for any other purpose than to inculcate mutual candour, and to censure the introduction of invidious topics. If there were any hope of terminating that endless and fruitless controversy, the most promising expedient would be a general agreement to banish the technical terms hitherto employed on both sides from philosophy, and to limit ourselves rigorously to a statement of those facts in which all men agree, expressed in language perfectly purified from all tincture of system. The agreement in facts would then probably be found to be much more extensive than is often suspected by either party. Experience is, and indeed must be, equally appealed to by both. All mankind feel and own, that their actions are at least very much affected by their situation, their opinions, their feelings, and their habits; yet no man would deserve the compliment of confutation, who seriously professed to doubt the distinction between right and wrong, the reasonableness of moral approbation and disapprobation, the propriety of praising and censuring voluntary actions, the justice of rewarding or punishing them according to their intention and tendency. No reasonable person, in whatever terms he may express himself concerning the will, has ever meant to deny that man has powers and faculties which justify the moral judgments of the human race. Every advocate of free will admits the fact of the influence of motives, from which the Necessarian infers the truth of his opinion. Every Necessarian must also admit those attributes of moral and responsible agency, for the sake of which the advocate of liberty considers his own doctrine as of such unspeakable importance. Both parties ought equally to own, that the matter in dispute is a question of fact relating to the mind, which must be ultimately decided by its own consciousness. The Necessarian is even bound to admit, that no speculation is tenable on this subject, which is not reconcileable to the general opinions of mankind, and which does not afford a satisfactory explanation of that part of common language which at first sight appears to be most at variance with it.

After the actual antecedents of volition had been thus admitted by one party, and its moral consequences by another, the subject of contention would be reduced to the question, What is the state

following chapter. 'Cæterum religionis sive Deum colendi jus nemo in alium transferre potest.' *Id.* cap. vii. § 26. This is a reason founded on the sacredness of religion.

of the mind in the interval which passes between motive and action? or, to speak with still more strict propriety, By what words is that state of the mind most accurately described? If this habit of thinking could be steadily and long preserved, so evanescent a subject of dispute might perhaps in the end disappear, and the contending parties might at length discover that they had been only looking at opposite sides of the same truth. But the terms Liberty and Necessity embroil the controversy, inflame the temper of disputants, and involve them in clouds of angry zeal, which render them incapable not only of perceiving their numerous and important coincidences, but even of clearly discerning the single point in which they differ. Every generous sentiment, and every hostile passion of human nature, have for ages been connected with these two words. They are the badges of the oldest, the widest, and the most obstinate warfare waged by metaphysicians. Whoever refuses to try the experiment of renouncing them, at least for a time, can neither be a peace-maker nor a friend of dispassionate discussion; and, if he stickles for mere words, he may be justly suspected of being almost aware that he is contending for nothing but words.

But if projects of perpetual peace should be as Utopian in the schools as in the world, it is the more necessary to condemn the use of weapons which exasperate animosity, without contributing to decide the contest. Of this nature, in our opinion, are the imputations of irreligion and immorality which have for ages been thrown on those divines and philosophers who have espoused Necessarian opinions. Mr Stewart, though he anxiously acquits individuals of evil intention, has too much lent the weight of his respectable opinion to these useless and inflammatory charges. We are at a loss to conceive how he could imagine that there is the slightest connexion between the doctrine of necessity and the system of Spinoza. That the world is governed by a Supreme Mind, which is invariably influenced by the dictates of its own wisdom and goodness, seems to be the very essence of theism; and no man who substantially dissents from that proposition, can deserve the name of a pure theist. But this is precisely the reverse of the doctrine of Spinoza, which, in spite of all its ingenious disguises, undoubtedly denies the supremacy of mind. This objection, however, has already been answered, not only by the pious and profound Jonathan Edwards,* an avowed Necessarian, but by Mr Locke, whose opinions about this question are not very distinct, and even by Dr Clarke himself, the ablest and most celebrated of

* Inquiry into Free Will, Part IV. c. 7.

the advocates of liberty. † To these religious philosophers we need only refer our readers, for a satisfactory vindication of the Necessarians on this subject. ‡

The charge of immoral tendency, however, deserves more serious consideration, as it has been repeatedly enforced by Mr Stewart, and brought forward also by Dr Copplestone; § the only writer of our time who has equally distinguished himself in paths so distant from each other as classical literature, political economy, and metaphysical philosophy. His general candour and temperance give weight to his accusation; and it is likely to be conveyed to posterity by a volume, which is one of the best models of philosophical style that our age has produced. *

† Demon. of the Being and Attributes, &c.

‡ The most conclusive authority is that of Butler, who, though an opponent of Necessity, expressly acquits it of inconsistency with morality and religion. The Sixth chapter of the first part of his Analogy is entitled, 'Of the Opinion of Necessity considered as influencing Practice;' and concludes thus. 'From these things we may learn 'in what sense to understand that general assertion, that the opinion 'of necessity is essentially destructive of all religion. *First*, in a 'practical sense; that by this notion *atheistic men pretend to satisfy 'and encourage themselves in vice*: And, *secondly*, in the strictest 'sense, that it is a contradiction to the whole constitution of nature, 'and to what we every moment experience in ourselves; and so *overturns every thing*. But by no means is this assertion to be understood 'as if necessity, supposing it could possibly be reconciled with the constitution of things, and what we experience, were not also reconcilable with religion; for, upon this supposition, it is demonstrably so.'

It is evident that the above passage affirms three things.

First, That necessity is destructive of religion and morality, when it is, in practice, misapplied to that purpose by bad men—which may also be said of liberty, or of any other opinion.

Secondly, That if it has other qualities which would prove it to be false, it is in that case also destructive of religion—which is impertinent to the question. And,

Thirdly, That if it be true, it is not inconsistent with religion and morality—which is all that it can be incumbent on a Necessarian to maintain.

§ Discourses preached before the University of Oxford. London, 1821.

* See a sermon of Archbishop King, republished by Mr Whately, an ingenious and learned member of Oriel College; a distinguished Society, which, besides its other merits, is at present the school of Speculative Philosophy in England. The note of this ingenious gen-

The Sermons of Dr Coplestone do indeed directly relate to theology. But, in this case, it is impossible to separate that subject from philosophy. Necessity is a philosophical opinion relating to the human will. Predestination is a theological doctrine, concerning the moral government of the world. But since the writings of Leibnitz and Jonathan Edwards, all supporters of predestination endeavour to show its reasonableness by the arguments of the Necessarian. It is possible, and indeed very common, to hold the doctrine of necessity, without adopting many of the dogmas which the Calvinist connects with it. But it is not possible to make any argumentative defence of Calvinism, which is not founded on the principle of necessity. The moral consequences of both (whatever they may be) must be the same; and both opinions are, accordingly, represented by their opponents as tending, in a manner very similar, to weaken the motives to virtuous action.

There is no topic which requires such strong grounds to justify its admission into controversy, as that of moral consequences; for, besides its incurable tendency to inflame the angry passions, and to excite obloquy against individuals, which renders it a practical restraint on free inquiry, the employment of it in dispute seems to betray apprehensions derogatory from the dignity of morals, and not consonant either to the dictates of reason or to the lessons of experience. The rules of morality are too deeply rooted in human nature, to be shaken by every veering breath of metaphysical theory. Our moral sentiments spring from no theory. They are as general as any part of our nature; the causes which generate, or unfold and nourish them, lie deep in the unalterable interests of society, and in those primitive feelings of the human heart which no circumstances can eradicate. The experience of all ages teaches, that these deep-rooted principles are far less affected than is commonly supposed, by the revolutions of philosophical opinion, which scarcely penetrate beyond the surface of human nature. Exceptions there doubtless are; the most speculative opinions are not pretended to be absolutely indifferent in their moral tendency; and it is needless to make an express exception of those opinions which directly relate to practice, and which may have a considerable moral

tleman in p. 100; and the chapter of Tucker to which he refers, would, we conceive, be assented to by most Necessarians;—allowance being made for the strong and perhaps excessive propensity of Tucker to accommodate his statements to popular conception and established opinions,—a disposition which was not without influence on the mind of his great follower, Paley.

effect. But, in general, the power of the moral feelings, and the feebleness of speculative opinions, are among the most striking phenomena in the history of mankind. What teacher, either philosophical or religious, has ever been successful in spreading his doctrines, who did not reconcile them to our moral sentiments, and even recommend them by pretensions to a purer and more severe morality? Wherever there is a seeming or a real repugnance between speculative opinions and moral rules, the speculator has always been compelled to devise some compromise which, with whatever sacrifice of consistency, may appease the alarmed conscience of mankind. The favour of a few is too often earned by flattering their vicious passions; but no immoral system ever acquired popularity. Wherever there is a contest, the speculations yield, and the principles prevail. The victory is equally decisive, whether the obnoxious doctrine be renounced, or so modified as no longer to dispute the legitimate authority of conscience.

Nature has provided other guards for virtue against the revolt of sophistry and the inconstancy of opinion. The whole system of morality is of great extent, and comprehends a variety of principles and sentiments, of duties and virtues. Wherever new and singular speculation has been at first sight thought to weaken some of the motives of moral activity, it has almost uniformly been found, by longer experience, that the same speculation itself makes amends, by strengthening other inducements to right conduct. There is thus a principle of compensation in the opinions, as in the circumstances of man; which, though not sufficient to level distinction and to exclude preference, has yet such power, that it ought to appease our alarms, and to soften our controversies. A moral nature assimilates every speculation which it does not reject. If these general reasonings be just, with what increased force do they prove the innocence of error, in a case where, as there seems to be no possibility of difference about facts, the mistake of either party must be little more than verbal!

We have much more ample experience respecting the practical tendency of Religious than of Philosophical opinions. The latter were formerly confined to the schools, and are still limited to persons of some education. They are generally kept apart from our passions and our business, and are entertained, as Cicero said of the Stoical paradoxes, more as a subject of dispute than as a rule of life. Religious opinions, on the contrary, are spread over ages and nations; they are felt perhaps most strongly by the more numerous classes of mankind; wherever they are sincerely entertained, they must be regarded as

the most serious of all concerns; they are often incorporated with the warmest passions of which the human heart is capable; and, in this state, from their eminently social and sympathetic nature, they are capable of becoming the ruling principle of action in vast multitudes. Let us therefore appeal to experience, on the moral influence of Necessarian opinions in their theological form. By doing so, we shall have an opportunity of contemplating the principle in its most active state, operating upon the greatest masses, and for the longest time. Predestination, or doctrines much inclining towards it, have, on the whole, prevailed in the Christian churches of the West since the days of Augustine and Aquinas. Who were the first formidable opponents of these doctrines in the Church of Rome? The Jesuits,—the contrivers of courtly casuistry, and the founders of lax morality. Who, in the same Church, inclined to the stern theology of Augustine? The Jansenists—the teachers and the models of austere morals. What are we to think of the morality of Calvinistic nations, especially of the most numerous classes of them, who seem, beyond all other men, to be most zealously attached to their religion, and most deeply penetrated with its spirit? Here, if any where, we have a practical and a decisive test of the moral influence of a belief in Necessarian opinions. In Protestant Switzerland, in Holland, in Scotland, among the English Nonconformists and the Protestants of the north of Ireland, in the New-England States, Calvinism long was the prevalent faith, and is probably still the faith of a considerable majority. Their moral education was at least completed, and their collective character formed, during the prevalence of Calvinistic opinions. Yet where are communities to be found of a more pure and active virtue? Perhaps these, and other very striking facts, might justify speculations of a somewhat singular nature, and even authorize a retort upon our respectable antagonists. But we have no such purpose. It is sufficient for us to do what in us lies to mitigate the acrimony of controversy, to teach disputants on both sides to respect the sacred neutrality of morals, and to show that the provident and parental care of Nature has sufficiently provided for the permanent security of the principles of virtue.

If we were to amuse ourselves in remarks on the practical tendency of opinions, we might with some plausibility contend, that there was a tendency in infidelity to produce Toryism. In England alone, we might appeal to the examples of Hobbes, Bolingbroke, Hume, and Gibbon; and to the opposite cases of Milton, Locke, Addison, Clarke, even Newton himself, for the first of these great men was also a Whig. The only remarkable example which now occurs to us of a zealous believer who

was a bigotted Tory, is that of Dr Johnson; and we may balance against him the whole, or the greater part, of the life of his illustrious friend, Mr Burke. We would not, however, rest much on observations founded on so small an experience, that the facts may arise from causes wholly independent of the opinion. But another unnoticed coincidence may serve as an introduction to a few observations on the scepticism of the eighteenth century.

The three most celebrated sceptics of modern times, have been zealous partisans of high authority in Government. It would be rash to infer, from the remarkable examples of this coincidence, in Montaigne, Bayle, and Hume, that there is a natural connexion between Scepticism and Toryism; or, even, if there were a tendency to such a connexion, that it might not be counteracted by more powerful circumstances, or by stronger principles of human nature. It is more worth while, therefore, to consider the particulars in the history of these three eminent persons, which may have strengthened or created this propensity.

Montaigne, who was methodical in nothing, does not indeed profess systematic scepticism. He was a freethinker who loosened the ground about received opinions, and indulged his humour in arguing on both sides of most questions. But the sceptical tendency of his writings is evident; and there is perhaps nowhere to be found a more vigorous attack on popular innovations, than in the latter part of the 22d Essay of his First Book. But there is no need of any general speculations to account for the repugnance to change, felt by a man who was wearied and exasperated by the horrors of forty years' civil war.

The case of Bayle is more remarkable. Though banished from France as a Protestant, he published, without his name, a tract, entitled, 'Advice to the Refugees,' in the year 1690, which could be considered in no other light than that of an apology for Louis XIV., an attack on the Protestant cause, and a severe invective against his companions in exile. He declares, in this unavowed work, for absolute power and passive obedience, and inveighs, with an intemperance scarcely ever found in his avowed writings, against 'the execrable doctrines of Buchanan,' and the 'pretended sovereignty of the people,' without sparing even the just and glorious Revolution, which had at that moment preserved the Constitution of England, the Protestant religion, and the independence of Europe. It is no wonder, therefore, that he was considered as a partisan of France, and a traitor to the Protestant cause; nor can we much blame King William for regarding him as an object of jealous policy.

Many years after, he was represented to Lord Sunderland as an enemy of the Allies, and a detractor of their great captain the Duke of Marlborough. The generous friendship of the illustrious author of 'The Characteristics'—the opponent of Bayle on almost every question of philosophy, government, and, we may add, religion—preserved him, on that occasion, from the sad necessity of seeking a new place of refuge in the very year of his death.* The vexations which Bayle underwent in Holland from the Calvinist ministers, and his long warfare against their leader Jurieu, who was a zealous assertor of popular opinions, may have given this bias to his mind, and disposed him to 'fly from petty tyrants to the throne.' His love of paradox may have had its share; for passive obedience was considered as a most obnoxious paradox in the schools and societies of the oppressed Calvinists. His enemies, however, did not fail to impute his conduct to a design of paying his court to Louis XIV., and to the hope of being received with open arms in France; motives which seem to be at variance both with the general integrity of his life, and with his favourite passion for the free indulgence of philosophical speculation.

The scepticism of Bayle must, however, be distinguished from that of Hume. The former of these celebrated writers examined many questions in succession, and laboured to show that doubt was, on all of them, the result of examination. His, therefore, is a sort of inductive scepticism; in which general doubt was an inference from numerous examples of uncertainty in particular cases. It is a kind of appeal to experience, whether so many failures in the search of truth ought not to deter wise men from continuing the pursuit. Content with proving, or seeming to himself to prove, that we have not attained certainty, he does not attempt to prove that we *cannot* reach it.

The doctrine of Mr Hume, on the other hand, is not that we have not reached truth, but that we never can reach it. It is an absolute and universal system of scepticism, professing to be derived from the very structure of the understanding, which, if any man could seriously believe it, would render it impossible for him to form an opinion upon any subject—to give the faintest assent to any proposition—to ascribe any meaning to the words Truth and Falsehood—to believe, to inquire, or to reason; and, on the very same ground, to disbelieve, to dissent, or to doubt—to adhere to his own principle of universal doubt; and, lastly, if he be consistent with himself, even to *think*. It

* *Supplément de Chauffepied, Art. Bayle, and Bayle's own Letters.*

is not easy to believe that speculations so shadowy, which never can pretend to be more than the amusements of idle ingenuity, should have any influence on the opinions of men of great understanding, concerning the most important concerns of human life. But perhaps it may be reasonable to allow, that the same character which disposes men to scepticism, may dispose them also to acquiesce in considerable abuses, and even oppressions, rather than to seek redress in forcible resistance. Men of such a character have misgivings in every enterprise; their acuteness is exercised in devising objections—in discovering difficulties—in foreseeing obstacles; they hope little from human wisdom and virtue, and are rather secretly prone to that indolence and indifference which forbade the Epicurean sage to hazard his quiet for the doubtful interests of a contemptible race. They do not lend a credulous ear to the Utopian projector—they doubt whether the evils of change will be so little, or the benefits of reform so great, as the sanguine reformer foretells that they will be. The sceptical temper of Mr Hume may have thus insensibly moulded his political opinions. But causes still more obvious and powerful had probably much more share in rendering him so zealous a partisan of regal power. In his youth, the Presbyterians, to whose enmity his opinions exposed him, were the zealous and only friends of civil liberty in Scotland; * and the close connexion of liberty with Calvinism, made both more odious to him. The gentry in most parts of Scotland, except in the west, were then Jacobites; and his early education was probably among that party. The prejudices, which he perhaps imbibed in France against the literature of England, extended to her institutions; and in the state of English opinion, when his history was published, if he sought distinction by paradox, he could not so effectually have obtained his object by the most startling of his metaphysical dogmas, as by his doubts of the genius of Shakespeare, and the virtue of Hampden.

We shall not follow Mr Stewart through his observations on the philosophers of the Continent. We agree with him in considering Condillac's Theory of the Origin of Knowledge as be-

* We remember to have been struck by some remarks on this subject in the Preface to a new edition of the *Edinburgh Review*, of 1755, which appeared in London three or four years ago. This republication will gratify the lovers of literary anecdote, as it publishes, for the first time, the names of the writers of each article in that Review—Dr Smith, Dr Robertson, Lord Roslyn, &c. It is also very curious as a record of the state of literature and speculation in Scotland in the middle of the eighteenth century.

ing not an improvement, but an exaggeration of the Lockian philosophy; the ultimate result of the least valuable parts of the *Essay on Human Understanding*. After all, it is not more remarkable, that, among the followers of Locke, there should be materialists, idealists, and absolute sceptics, than that Antisthenes and Aristippus, as well as Xenophon and Plato, should have issued from the school of Socrates. The resemblance is chiefly observable, as it shows that the impulse which is commonly given to the human mind by turbulence and fanaticism, was, in one instance at least, imparted to it by the two wisest and most humble philosophers of the ancient and modern world. There is perhaps no name in the history of philosophy which has been so unjustly neglected as that of Buffier. His '*Treatise on the First Truths*,' the only work of his known in this country, is but a part of a general system of the sciences,* and cannot be fully estimated, without observing its relations to the other parts of the system. With all the merits of that treatise, it is little more than an expansion of that immortal fragment, where the genius of Pascal has assembled, in the space of two pages, all that ever has been, or ever can be, said for and against universal scepticism.† Common sense, according to this philosophical Jesuit, is a disposition implanted by nature in all men, to believe certain propositions which relate to objects, without the proper sphere of consciousness, and which are not deduced from any anterior proposition. This principle, he observes, has nothing in common with innate ideas; for it is a disposition which does not act till the ideas, which are its natural objects, are presented to the mind. First truths, in his view of them, are distinguished by this quality, that nothing more clear than themselves can be urged in support of them, or in opposition to them. Like Condillac, he has applied his philosophy to the arts of which language is either the object or the instrument—to eloquence, to poetry, and to grammar. Poetry he calls a very animated eloquence:‡ a gross error, which

* *Cours de Sciences sur des Principes nouveaux et simples; pour former le Language, l'Esprit et le Cœur, dans l'usage ordinaire de la Vie.* Par le Père Buffier de la Compagnie de Jesus. Folio. Paris, 1732. This collection of his works is so rare, that we have never seen any copy but that which is now in our own possession.

† *Pensées de Pascal*. Partie 2de, Art. 1er. See *Edinburgh Review*, Vol. XXII. pp. 235–238.

‡ He adds indeed, 'which employs versification instead of ordinary language, and fiction instead of reasoning.' But this addition does not correct the radical vice of the conception.

some fine passages of Voltaire and Corneille may extenuate, but which no man who felt *Phœdre* and *Alhalie* could heartily entertain. His excellent work on Grammar was perhaps the first example of philosophical grammar in the French language. A considerable space in his course is occupied by a treatise on Ethics, in which all the duties of life are deduced from the tendency of their observance to ensure the happiness of the agent as connected with that of his fellow men. 'I desire to be happy,' says Buffier; 'but I live in society with other men, who likewise desire to be happy. Let us try to discover the means by which I may increase my own happiness, while I augment, or at least do not diminish, that of others.'—'This is the foundation of all human wisdom; the source from which all virtues, purely natural, flow; the general principle of all morals, and of all human society.' This is that principle of utility which, under different forms, has been considered as the basis of ethics by so many moralists; from Cicero, who represents it to be the first object of morality, '*ut eadem sit utilitas uniuscujusque et universorum*,' to the poet who teaches us, '*that true self-love, and social, are the same*.' It ought to be added, that the writings of Buffier are remarkable for that perfect clearness of expression which, since Descartes and Pascal,* has been so generally diffused among French writers, that it may now be regarded as one of the enviable peculiarities of their language.†

We have already said, that we shall not be tempted, by this Discourse, into the extensive field of German speculation. Perhaps it would have been better if Mr Stewart had preferred

* There are few passages more valuable to the student of philosophy, than the second and third articles of the First Part of Pascal's Thoughts; especially the Eight Rules for Definitions, Axioms, and Definitions formed from the example of Geometricians, but in some degree applicable to all reasoning; which seem to us admirable for their simplicity and perspicuity, and for a sort of homely usefulness, which is one of the rarest merits of a metaphysician.

† A late publication at Paris seems strongly to indicate a disposition, among French philosophers, to consider Condillac's Account of the Origin of Knowledge as incomplete and unsatisfactory. '*Leçons de Philosophie*. Par M. Laromiguière. Paris, 1820. Edition 2de. We know this work hitherto only from some able criticisms on it in the '*Journal des Savans*.' From these we should conjecture, that the speculations of the author bore some resemblance to those of the late most ingenious Dr Brown, which we should rejoice in an opportunity of examining with the attention due to their great importance.

silence on this subject, to judgments formed with imperfect means of information.' At all events, it would have been more conformable to those generous principles which usually influence his criticism, to have presumed favourably, or at least to have spoken cautiously, of philosophers whom he cannot hear in their own defence, than to have given full scope to the prepossessions of his school and his country, and to have lent some countenance to the prejudices of the vulgar against their opinions and their talents.

The metaphysical paroxysm of Germany has, however, disappeared. Kant and his successors, together with their opponents, have ceased to occupy that degree of public attention which it was not agreeable to the common course of human affairs that writers on such subjects should ever enjoy. Such vicissitudes, in former times, suggested the observation of Mr Hume. 'A pleasant comedy, which paints the manners of the age, and exposes a faithful picture of Nature, is a durable work, and is transmitted to the latest posterity. But a system, whether physical or metaphysical, owes commonly its success to its novelty; and is no sooner canvassed with impartiality, than its weakness is discovered.' Farther reflection, though it may not lead us altogether to dissent from this fine and striking remark, will warrant some hesitation in adopting the opinion, that philosophical systems are worthless. To the common observer, indeed, they seem to pass away, without leaving behind a trace of their transitory sway. But the succession of opinions and of schools constitutes the long education of the human understanding. Each system will, on due examination, be found to be best adapted to the condition of the minds of men at the period of its rise: and there is none which does not throw a stronger light on some particular part of the edifice of knowledge. Every one brings into view some truth overlooked, or slightly examined by others; and the most defective cures some distemper of the understanding, however it may produce or aggravate other intellectual maladies. The very prevalence of a set of opinions is a sufficient proof that, for the time, they are better fitted than any other to rouse, to strengthen, and to sharpen the faculties of mankind. In this great process, opposite errors gradually correct each other, and every side of every question is fully and minutely surveyed. The torrent soon subsides, and is dried up; but each, in its course, deposits some particles of genuine ore, and furnishes some facts and observations for that fabric of truth which slowly, but constantly, arises, even amidst the errors which seem to obstruct its progress.

The attention of the Germans has recently been turned to o-

ther subjects, which naturally lead us to attend Mr Stewart, for a moment, in his short observations on the philosophy of languages,*—on the grand retrospect of Asiatic civilization—and on the bright prospects of improvement in America; subjects which he evidently considers as not unconnected with each other, and which he rightly deems not foreign to a History of the Science of Human Nature.

On the first of these subjects, the German scholars received their first impulse from Leibnitz, some of whose boldest speculations relate to the arrangement and analogies of languages, viewed in their connexion with the early annals of our species. The celebrated Mr W. Schlegel, who has presented Calderon and Shakespeare to his countrymen with an animated fidelity which has astonished the scholars of Spain and of England, and who has more recently seconded the exertions of *M. Raynouard* to recover the Grammar and History of that celebrated Romance dialect which is commonly called Provençal, has at last turned his philological powers to the elucidation of Sanscrit; and, with the aid of his brother, and of the very learned *M. Bopp*, has already thrown a stronger light on its resemblance, not only in words but in grammatical structure, to the ancient Persian, to Greek, and to Teutonic. He brings to his new study those rules and habits which three centuries of criticism on the ancient writers formed in Europe; and he proposes, in a series of editions of Sanscrit books, to appear as the first critic and commentator on the classics of ancient India.†

The same national talent for discovering the relations of languages would be conspicuous, if it were not lost in variety of excellence, in the works of *M. Alexander de Humboldt*; who, as he carried with him from Europe a larger stock of science, so he has brought back more splendid accessions to our knowledge than any other traveller; whose works may be considered as the best proof of the existence of a secret band which unites all the parts of knowledge,—of the unexpected light which physical and moral sciences the most distant and dissimilar are

* This part of knowledge is by no means to be confounded with the philosophy of language. The latter science considers only what is common to all languages. The former is conversant with the variety of classes into which human languages are to be divided according to their origin and structure, and exhibits the history of their various changes and mutual dependence. It is a science so new as to be yet without a name.

† See *M. Schlegel's Journal*, entitled *Indische Bibliothek*, Bonn, 1820.

found to reflect on each other; and of the power of a great master to raise the dignity of his scientific attainments, by employing them in the service of a general and comprehensive philosophy. We gather, from some scattered intimations in the late volumes of his great work, that he still meditates a visit to the Central Mountains of Asia; a design which his examination of America originally inspired. In truth, these countries are connected in a philosophical imagination by the contrast of their institutions, as well as by the resemblance of some of the grand features of nature. This singular and mixed relation has more than once brought them together in the writings of Mr Stewart, as it probably contributed to join them as objects of interest in the comprehensive mind of M. de Humboldt. They seem to form the extreme visible points of the past and future progress of human civilization. The whole of its course, as far as we can see, or even speciously conjecture, seems to be performed between the Ganges and the Mississippi. The times which passed before the social system of India, and even the origin of that system itself, are covered with impenetrable darkness. We dimly descry its ancient state, and we perceive nothing beyond it. It is still covered with the remains of the earliest laws and works of civilized men.

North America, on the other hand, presents to our observation the extraordinary spectacle of a Commonwealth advancing with gigantic strides to imperial greatness, with institutions of which some are hitherto untried among powerful states. By a singular fortune, it has happened, that the same European people have conquered the most ancient seats of civilization in the East, and founded this new order of society in the Western World. At the same moment we learn that the site of Meroe is ascertained, or the remains of Babylon surveyed in one quarter of the globe; while in another, populous and flourishing republics spring up in the Wilderness, and industry subdues the Desert with a rapidity which exceeds the course of the most renowned warriors. In the dominions, or among the descendants of the English nation, we discover the most venerable antiquity to which remembrance can stretch, and the utmost progress in the time to come, from which the most sanguine hopes of enthusiasm can anticipate improvement. This is a position of great dignity, in which perhaps no people was ever placed before. But there are many among us who seem disposed to reject the better part of this high destiny. All who, from whatever motive, either of narrow faction or of political jealousy, regard America with unfriendly eyes, are strangely forgetful of the honour which redounds to their country from that monu-

ment of the genius and courage of Englishmen. It was not thus that this great subject was viewed by the wisest men who have gone before us. 'We view the establishment of the English colonies on principles of liberty,' says Mr Burke, 'as that which is to render this kingdom venerable to future ages. In comparison of this, we regard all the victories and conquests of our warlike ancestors, or of our own times, as barbarous, vulgar distinctions, in which many nations whom we look upon with little respect or value have equalled, if not far exceeded us. This is the peculiar and appropriated glory of England. Those who *have and who hold* to that foundation of common liberty, whether on this or on your side of the ocean, we consider as the true and the only true Englishmen. Those who depart from it, whether there or here, are attainted, corrupted in blood, and wholly fallen from their original rank and value. They are the real rebels to the fair constitution and just supremacy of England.' * These words were intended to be addressed to the people of America in January 1777, a period of civil war, by a zealous friend of the supremacy of England, after the declaration of American independence. The two English States on both sides of the Atlantic are now indeed liable to those vicissitudes of war and peace to which popular interests and passions expose all independent countries; but their friendly intercourse is perhaps still more endangered by popular animosities; and its continuance depends, in some measure, on their habitual temper and feelings towards each other. The glory of England is the establishment of Liberty in a great empire. To her belong the great moral discoveries of Habeas Corpus and Trial by Jury, of a Popular Representation and a Free Press. These institutions she sent forth with her colonists into the Wilderness. By these institutions they have grown into a mighty nation. The more they multiply and spread, the more splendid will the name of that nation become, which has bestowed these inestimable blessings on the world. The laws of England, founded on principles of liberty, are still, in substance, the code of America. Our writers, our statutes, the most modern decisions of our Judges, are quoted in every Court of Justice from the St Lawrence to the Mississippi. English law, as well as English liberty, are the foundations on which the legislation of America is founded. The authority of our jurisprudence may survive the power of our government for as many ages as the laws of Rome commanded the reverence of Europe, after the subversion of her empire.

* Address to the British Colonists in North America, Burke, V. 147. Ed. 4to.

Our language is as much that of America as it is that of England. As America increases, the glory of the great writers of England increases with it. The admirers of Shakespeare and of Milton are multiplied. The fame of every future Englishman of genius is more widely spread. Is it unreasonable, then, to hope that these ties of birth, of liberty, of laws, of language and of literature, may in time prevail over vulgar, ignoble, and ruinous prejudices? Their ancestors were as much the countrymen of Bacon and Newton, of Hampden and Sidney, as ours. They are entitled to their full share of that inheritance of glory which has descended from our common forefathers. Neither the liberty of England, nor her genius, nor the noble language which that genius has consecrated, is worthy of their disregard. All these honours are theirs if they chuse to preserve them. The history of England, till the adoption of counsels adverse to liberty, is their history. We may still preserve or revive kindred feelings. *They* may claim noble ancestors, and *we* may look forward to renowned decendants,—unless adverse prejudices should dispose *them* to reject those honours which they have lawfully inherited, and lead *us* to envy that greatness which has arisen from our institutions, and will perpetuate our fame.

* * Circumstances have compelled us to break off abruptly at this place. We shall probably soon find a convenient opportunity of laying before our readers the observations which have occurred to us on that part of Mr Stewart's Discourse which relates to the English and Scotch Philosophers of the eighteenth century, from Berkeley to Brown.

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3. A TREATISE ON THE LAW AND PRACTICE OF ELECTIONS. By ARTHUR MALE of Lincoln's Inn, M. A., Barrister-at-Law. Second Edition. London, 1820.

AT this moment, there are few of the systems of legislation, either of ancient or modern times, which are not in force as living law within the British empire. Menu and Moham-med decide the civil rights of the Hindoo and the Mogul; and an appeal from India compels our Privy Councillors to consult the Koran and the Puranas, as authorities at Whitehall. Justinian is obeyed by the courts of the Ionian Republic. In the Norman Isles, the severed portions of the domains of the Conqueror, the Barbaric customal framed by his Justiciars, still guides the Grand Bailiff and the Seneschal, who dispense the equity of Rollo, now forgotten in the hall of Rouen. Canada cherishes the volumes which have been cast forth from the Palace of Justice; and the legitimate representatives of the

proud and learned Presidents of the Parliament of Paris, are found in the court-house of a colonial town. Banished from the flowery meadows of the Seine, the ordinances expounded by Saint Louis beneath the oak tree at Vincennes, constitute the tenures of lands on the Gulf of St Lawrence ; and, whilst every vestige of feudality has been blotted out of the title-deeds of the European Continent, it remains in full vigour in the wilds and wastes of the New World. In the opposite hemisphere, we bestow an equal protection on the codes of Napoleon ; and it is possible that, in future ages, the speck of land, the Mauritius, in which they are now in force, may alone preserve the vestiges of the jurisprudence of the Great Empire. Our sovereign appoints his Alcades and his Corregidores in the Indies of Columbus ; while his Landrosts in Southern Africa are guided by the Placets of the States-General of the departed Republic of the Netherlands. The laws of King Christian of Denmark are administered by British authority in the torrid zone. And the Deemsters assembled on the Tynwald of Man, have not abandoned the polity of the Sea-Kings of Scandinavia. It is difficult to question the policy which first induced England to sooth her stranger subjects, by thus indulging them with the exercise of the laws which habit had rendered dear to them. But our legislators should now begin, slowly and cautiously, to assimilate the institutions of the dependencies to those of the mother country. This end must be effected by the introduction of ' trial by Jury of twelve men, which, upon all accounts, ' as it is settled here in this kingdom, seems to be the best trial ' in the world. Acknowledging that, on particular occasions, ' trial by the country ' has great inconveniences, these words of Hale should nevertheless be the Englishman's creed. Human institutions only possess a comparative excellence. And to justify our partiality towards the English common law, that is to say, to trial by Jury, it is sufficient that its practical value is not lessened by its remoteness from abstract perfection.

Trial by Jury is usually considered only in relation to our judicial system ; and figures in our eyes merely as a part of our civil and criminal jurisprudence. In its origin, however, its powers and functions were far more ample. If we develop the organization of the institutions out of which the modern Jury was framed, it will become probable, that they contain within them the groundwork of all our Constitutional forms of Government, and of the assemblies in which the powers of government are constitutionally vested. The web of history is entangled and decayed ; and we must endeavour to unravel the broken threads, though we cannot weave them again into con-

tinuity. Doubt must be balanced by doubt, and conjecture supplied by conjecture : but there is, fortunately, one loadstar which will assist us in winning our way athwart the idle desert of hypothesis. One leading principle pervades the primeval polity of the Goths. Where the law was *administered*, the law was *made*. By the gradual settlement of society, the legislative and judicial powers frequently appear to be disjoined. But, wherever either function is found, we may be certain that the other is still a latent element, or that it has been expelled by extraneous causes.

Ingulphus, following a prevailing and favourite tradition, ascribes the origin of the political divisions of England to the wisdom of Alfred. Labouring to quell the turbulence and rapine of his subjects, Alfred is said to have first distributed the townships and provinces of England into Shires; the Shires into Hundreds; and the Hundreds into Tithings. Each law-worthy Englishman thus stood in his Tithing, and in his hundred; so that, if suspected, he could be condemned or acquitted by his Friborg, and incur or avoid the penalty of guilt. But if Alfred had been the inventor of the territorial division of England, he must also have been the creator of the common law itself, which only proceeds in conjunction with these divisions; and indeed the Jury trial has also been popularly considered as his ordinance. This, however, is an evident absurdity: and the existence of the Hundred Court amongst the Teutonic nations of the Continent of Europe, proves, without further contest, that such distributions of the people were originally adopted by all of the Gothic tribes.

Authors of great repute, however, have scarcely dared to reject the testimony of the monkish chronicler. Blackstone tells us, ‘ that when the West Saxons had swallowed up all the rest, and King Alfred succeeded to the monarchy of England, his mighty genius prompted him to undertake a most great and necessary work, which is said to have been executed in as masterly a manner—no less than to new-model the constitution—to rebuild it on a plan that should endure for ages—and, out of its old discordant materials, which were heaped upon each other in a vast and rude irregularity, to form one uniform and well connected whole. This he effected, by reducing the whole kingdom under one regular and gradual subordination of government, wherein each man was answerable to his immediate superior for his own conduct and that of his neighbours: For to him we owe that masterpiece of judicial polity, the subdivision of England into tithings and hundreds, if not into counties; all under the influence and ad-

‘ministration of one supreme magistrate, the King; in whom, as in a general reservoir, all the executive authority of the law was lodged, and from whom justice was dispersed to every part of the nation, by distinct, yet communicating ducts and channels;—which wise institution has been preserved for near a thousand years, unchanged from Alfred’s to the present time.’ Now, there are two propositions involved in this quotation—the subdivision of England, and the emanation of all power from the chief magistrate. Both are currently received; both are equally plausible; and both are equally unwarranted and groundless, as far as they concern the *theory* of our ancient polity. When admitted to be true, they confuse us in every endeavour which we make to investigate the origin of our forms of government. They are false quantities in the equation. If we reject them, we may approximate at least, to a clear and certain solution of many of our constitutional problems.

Before we proceed, however, we consider it quite necessary to warn our readers, that we enter the perilous field of constitutional inquiry with the chill technicality of the antiquary. Our discussions have not the slightest reference to existing circumstances. We may strive to diminish the power of the Crown, but the Radicals will not gain a straw by our researches. If our conjectures have any pertinence or truth, they will only convince Major Cartwright, that close boroughs and rotten boroughs are—*more majorum*—the most respectable and genuine relics which we now possess of the Anglo-Saxon constitution; and shall compel him to admit, that the borough-mongers had as much influence in the Wittenagemote as they now possess in a certain Assembly which shall be nameless. We make this asseveration with an honest feeling of veracity: At the same time, we shall leave the worthy and independent electors of Barnstaple and St Albans as free as they chuse, to reward us and our friends with seats in the House, as a guerdon for the exertions which we make in upholding the antiquity of King Athelstane’s charters, under which both these patriotic communities claim their elective franchises.

If we reflect upon the obligations imposed upon the community, in that stage of society which is usually termed half civilized life, it will appear that the Anglo-Saxon Shire, in spite of its etymology, was not a department cut out of a larger country, and then divided and subdivided into small and smaller districts; but that it was formed by the association of the lesser districts, originally organized without mutual subjection, but placed under a superinduced authority, for the purposes of political administration. We would assimilate a Shire to a Government, ac-

cording to the old French regime, in which many independent Baillages and Counties and Dutchies were bound up under the rule of an officer appointed by the King. This comparison is somewhat loose and inaccurate; but it will illustrate our meaning better than a reference to a mode of government, bearing a close affinity to our own, but which, as yet, has received only a very imperfect elucidation from the Continental antiquaries. We allude to the military and fiscal management of the *Gauen* and communes of Germany and France, by the Counts and Missi of the Carlovingian era.

According to the habits and opinions which we acquire in civilized and settled governments, the State is a certain tract of land in which a body of people dwell. Whether the inhabitants be the subjects of a monarch, or the citizens of a republic, still our ideas of the property of individuals, and of the dominion belonging to the ruling authority, always teach us to consider the men as being in some measure adscript to the glebe. But, during the youth of human society, we must view the State as a certain body of people, dwelling on a tract of land. The people are the commonwealth; the soil is their accessory. When, in the course of their successive wanderings, the Germanic nations passed into new regions, they did not look down from the mountain, and allot the land, which they gained, into squares and rectangles, like the settlements of America. They acquired possession of the fields, which were tilled in common by each *Folk*, and grazed promiscuously by their flocks and herds. The course of the river, or the ridge of the hill, would naturally separate one tribe from the next adjoining family. But this territorial boundary resulted from the expansion of the people on the land, not from their compression within a preconceived frontier. Larger states were gradually formed by the aggregation of these communities under one authority. Fear or ambition subjected them to one leader. Prudence dictated an incorporate alliance with a cognate commonwealth; but the union did not deprive them of their self-rule, so far as this attribute was not inconsistent with the existence of a sovereign power. The Gothic commonwealth, in short, is not a unit, of which the smaller bodies politic are fractions. They are the units, and the commonwealth is the multiplicand. Higher jurisdictions do not commit a portion of their authority to the mesne tribunals. On the contrary, they acquire their rights by a concentration of the powers of more circumscribed courts. Every Gothic monarchy is, therefore, in the nature of a confederation. It is composed of towns, townships, shires, bailliwicks, burghs, earldoms, dukedoms; all in a certain degree strangers to each

other, and separated in jurisdiction. Their magistrates, therefore, in theory at least, ought not to emanate from the sovereign. A large proportion of the efficient authority of the State lodges itself amongst Barons, Mayors, Portreeves, Aldermen, Wardens, Echevins, Jurats, Provosts, and Consuls, where it is detained midway between the King and the moving mass of the people. The strength of the State ascends from region to region. The representative form of government, adopted by no nation but the Gothic tribes, and originally common to them all, necessarily resulted from this federative system, in which the Sovereign was compelled to treat the component members as possessing a several authority.

All the primitive nations were composed of tribes or clans. But these communities generally proved incapable of knitting themselves together into states, at once free and powerful. If unamalgamated, they were weak and defenceless. When forced into combination by an energetic authority, their union was usually effected at the expense of individual liberty, and of the independence of the nation. Anarchy always raged amongst the Celtic septs. Fierce, yet impotent, they yielded to every foe, until they were chased to the western shores of Europe, or lost amongst their masters. Power and conquest, on the other hand, attended the Semetic and Tartaric tribes; but they were never united unless by despotism. The Gothic nations alone solved the difficult problem of protecting the rights of the component members, without weakening the commonwealth: And they attained this end by erecting a Legislative Aristocracy in every community. If not always elected by the people, this aristocracy was at least taken from amongst them. Hereditary nobility conjoined to property, is inherent in the Gothic polity. A popular delegation or selection counterbalanced the power of the noble born in the character of judges and of legislators; and at the same time that they bridled the impetuous multitude, they checked the Sovereign power.

The Northmen represent the institution of the judicial Council of Twelve as coeval with their race. 'Beyond the Tanais in Asia,' as we are told by Snorro, 'lieth the land which men called Asaland or Asaheim; and the chief city thereof they named Asgard. Odin was the ruler of the city, and it was a great town of sacrifice and burnt offering. It was the law of Asgard, that the twelve priests of the palace should be the mightiest over all. They ruled over the sacrifices, and gave the doom between man and man. They were called Diar or Drottnar (Lords); and to these did the people owe all worship.' The Edda agrees in the main with the Heinskringla of Snorro. Odin is there recorded to have placed 'twelve head men in

‘Sigtun, to doom the land’s law. And thus did he set all the laws which had before been in Troy, and to which the Turks were accustomed.’ These traditions are chiefly valuable as tending to show the connexion between the legislative polity of the Asi and their religion. Another proof is furnished by the constitution of Iceland, where the Hofgodar, who formed a duodenary court, were the high-priests of the districts over which they presided. Saxo Grammaticus, whose fables were translated from ancient documents which have long since perished, attributes the institution of the judicial council of twelve Fathers or Aldermen, to Regner Lodbrok, * one of the mythic Monarchs of the North. These twelve Aldermen were to decide all causes in a summary manner. In the military polity of the Asi, the sacred number of twelve was equally affected. When the Seakings went forth to war, they were usually accompanied by twelve chosen followers. The Anglo-Normans had a reminiscence of these primeval customs. Robert Fitzhamon and his twelve knights invaded the land of Glamorgan; and in the assembly of the twelve Peers of Charlemagne, we discover how similar recollections became blended with romantic fable.

In attempting to examine the internal constitution of the Gothic state, we shall derive great aid from the codes of the Scandinavian nations. Peculiar portions of the Anglo-Saxon polity have been retained amongst us, by prescription, with great fidelity. But our constitution has been so carefully cultivated, that its later luxuriance has tended to obscure its generic character. We shall quote indifferently from the laws of all the cognate nations. They afford a perpetual comment upon each other; and, by comparison, they enable us to approximate towards the theory of their general polity.

The integral community amongst the Scandinavians, seems to have been the Hærad or Hundred, a district usually subdivided into quarters, but occasionally into tithings. † Many

* ‘Præterea, ut omnis controversiarum lis, semotis actionum instrumentis, nec accusantis impetitione nec rei defensionis admissa, duodecim patrum approbatorum judicio mandaretur, instituit. Cujus legis beneficio, temeraria litium contradictione summo, improborum calumniæ sufficienter obviatum existimans.’ It is rather strange that such a critical writer as Hickes should have supposed that juries were introduced into England by this Danish king, whose existence is more problematical than that of Tom Hickathrift. Saxo is to be quoted as an evidence of opinion, not of fact, and as proving that his countrymen believed in the great antiquity of this mode of trial.

† The Danish jurists dispute this etymology, but without reason.

doubts have been raised as to the principles upon which the Anglo-Saxon Hundred was composed; whether it contained an hundred hides of land, or an hundred men, or an hundred vills, or an hundred families. But whatever the original items may have been, the prevalence of the duodenary system, must lead us to infer, that they were originally told and reckoned according to the *long hundred* of six score.* The Swedes maintained their constitution with greater purity than their neighbours; and the Landzlagh† affords a clearer view of Gothic polity, than any of the Norwegian or Danish codes: Hence we learn, that the chief executive magistrate of the Herad was the Heradzhoftling. When the office became vacant—we know not whether it was held for life or annually, but we incline to the former supposition—the Laghman of the Laghsagha or shire, in which the Herad was locally included, summoned a meeting of the Hundred, one month's notice being previously to be given. The

Ihre's observations are curious. ‘*Illustris Peringskioldus vertit hord- as seu districtus, alludens haud dubie ad vocabulum illud hord, quod Tartarici nominis gentes cætus suos appellare, ex itinerum scriptoribus notum est. Et quis scit annon una eadumque vox sit, a linguae suæ incuriosis negligentius tantum pronuntiata. Certe non absimilis illius habitus est in Sleswicensi regione, ubi harden certas ducatus portiones in quas 13 illius territoria dividuntur, appellare solent * * * * ** Hactenus de cognatione vocis: quod vero ad compositionis rationem attinet, in confesso est hæc alteram vocis partem constituere, et nisi fallor prout vox illa numerum centenarium indicat. Confirmat me hac in opinione quod *hundari* et *herröd* promiscue poni video.’

* ‘*Hundrade* usurpatur pro numero CXX, scilicet observandum, veteres tam per decadas quam duodecades numerasse, atque ad centenarium numerum pervenientes, illum *lill-hundrad* vel *hundrad tised*, alterum vero seu CXX *Storhundrade* vel *hundrad-tolfred* appellasse. Similiter *lilla-tusend* mille erat, sed *Stor-tusend* aut *tusend telfred* erat ‘M. C. C.’ (Ihre in v.) The parishes of the Norman isles contained twelve vintaines of families, or two long hundreds. In the English Leets, we find twelve chref pledges; probably because there were twelve tithings. We do not know whether there was a *long ten*, as well as a *long hundred*, and a *long thousand*; but we find frequent mention of *dozens* in our ancient records and law books, where we should be led to expect *decennaries*. In the Isle of Man, each shedding or hundred contained a decennary hundred of holdings; but, as the island comprised six sheddings or holdings, we come back again to the duodenary computation. All England was divided into 243,600 hydes or ploughlands, or 20,300 dozens.

† Edin. Rev. vol. xxxiv. p. 182.

law then directs, that the Men of the Hundred are to name an assize of twelve Næmpdemen, such as they will, and the Laghman is to be the thirteenth. The Næmpdemen, with their official foreman, elected three indwellers of the Herad, whose names were returned to the King; and one was to be selected by him as the Heradzhoffding.

This officer, together with a Næmpd of six or twelve men, according to the weight and urgency of the business, exercised a jurisdiction similar to that of the English leet and homage juries over all the common land or 'almenning' within the Hærad. All alienation of the fee of this land was prohibited, the absolute dominion always remaining in the community or 'almoghen.' If the tenant paravaile was poor or idle, and suffered his holding to lie waste, then it was seized by the Hærad, and granted out again to a more industrious usufructuary; in the same way as in English manors, a forfeiture is incurred if buildings are suffered to fall into decay. Bridges were built and roads mended, according to the presentments of the Heradz-næmpd, and they decided all disputes arising out of the occupation of land. *

When exercising their criminal jurisdiction, the Heradz-næmpd passed as an assize, upon trials of murder, rape, theft, mayhem, and all other personal injuries. In cases of open delict, if the offender could be taken within the day, back bearing, or with the bloody hand, then the trial was had by witnesses, of which twelve were required on some occasions. But if the sun had set, then it appears that the verdict was found by the Heradz-næmpd without evidence, and on their own knowledge, and according to common fame. The Heradzting or Hundred court, was to be held once on each week, and not oftener, unless in obedience to the King's writ or bidding. All the *Bondes*, that is to say, the owners of allodial land within the Herad, owed suit and service to this court; and they were amerced if they failed. Yet it seems, that if six out of each quarter appeared, then the rest were excused. This number was necessary for the purpose of holding a court, because the law in certain cases prescribed such a Næmpd as would represent the component divisions of the Herad, being three Næmpdmen out of each quarter. From the Heradz-næmpd either party could appeal to the Rettarating, in which the assize of twelve was composed half of *Haffmen*, who, without great inaccuracy, may

* A species of Heradz-næmpd lately existed in Sutherland, as long as the glens were occupied by the original tenants. We believe it is still retained in Galloway. In both instances this mode of administration was probably introduced by the Northmen.

be called King's Thanes; and half of Bondes, all good landed men, and true men, who were called up by the Heradzhofting with the assent of the Hundred and of the parties; and their decision was final as to matters of fact. But if a verdict was evidently given against law and righteousness, it might be set aside by the King.

Each *Laghsagha*, Law, or Shire, contained within it many Heradhs. Here the executive magistrate was the Laghman or Lawman. Eight weeks previously to his election, the Bishop summoned all the indwellers of the shire to a Parliament or Landzting. Two priests belonging to the Episcopal chapter were associated with the Bishop. The Almoghen or commonalty of the shire elected six Hofmen and six Bondes. 'The twelve, with the clerks, shall then choose three of them that dwell in the shire, such as they will answer to God, as being most serviceable to the country.' The three names being returned to the King, he selected one, as the Laghman. When the Landzting was assembled, in the capacity of the high remedial and inquisitorial Court of Justice or Rästnæmpd, the Laghman was Speaker or President. The Bishop, two priests from the Episcopal chapter, and two of the King's council, were associated to him; and, if the latter were absent, then two good and freeborn men were elected to supply their places by the Lawman and the clergy. The commonalty were represented by twelve men who were to be assented to, elected and named by the King and the Landsmen. This is the direction of the law; but in practice, the election of this judicial Næmpd would not differ from the Næmpd which elected the Laghman. We can easily understand that a compromise resulted. The King named his members, and the People theirs.

According to the principles of the Scandinavian law, the King was the conservator of the public peace. He was to be invoked as the tutelary guardian, where defence was most needed against lawless violence. House and home—the church—the courts of justice—and woman,—were placed under the especial protection of the King. Hamesoken, sacrilege, murder or mayhen, committed in a judicial assembly, and rape, were therefore considered, by a reasonable fiction, as treasonable breaches of the 'sworn oath' of fealty due from the commonalty; and these crimes were cognizable as treason by the Rästnæmpd. But all other offences against the public peace were equally within its jurisdiction, probably in cases where the meaner tribunals had neglected their duty. And it also judged of suits and actions, in which the defendant incurred a penalty of damages above the amount of forty marks.

The Lawmen, the elected executive magistrates, and the elected Næmpds of the shires, nominated the Sovereign of the Commonwealth. The kingdom of the Swedes is declared, by the ancient law, to be elective, and not hereditary. ‘When we have lost the King of these lands, then shall each Laghman, with the assent of all those that dwell in his Laghsagha, summon twelve men, wary and wise. With them shall he come into the stone of Mora, and choose the King. The first voice hath the Laghman of Upland, and they who have been named with him. Thereafter shall follow the others, each after each. Sutherannaland, East Gothland, Oland, the Ten Hundreds, West Gothland, Wermeland, Nerekia, Westmannaland, and Finland.’

The returns of the Næmpds being given by their foremen, he who had the most voices was adjudged to be the King. Any free-born Swede might be elected; but the law directs the preference to be given to the sons of the late King, ‘if there are any.’ The representatives of the shires who elected the King, though they assembled at one time and place, were congregated, rather than incorporated into one parliament. And although the voices of the majority bound the whole commonwealth, yet each Law or Shire accepted the King apart from the rest. In the constitutional language of the Swedish law, the King ‘must ride his *Eriks-gata*.’—‘In each Land and Shire shall the King promise and vow to keep the oath which he swore at the Stone of Mora, when he was first elected to be the King; and the commonalty shall also promise to hold to that, which they swore at Upsala. And now the King must ride with the sun throughout his land. Let those that dwell in Upland-law follow him over their law, and until Strægness. Then must the Suthermen take to him, and meet him with greetings and with pledges, and follow him even unto Swintuna. There shall the East Goths meet him, with their pledges, and follow him through their land until the middle of the wood at Holawith. There shall the men of Oland meet him, and follow him until the river of Juna. There shall the West Goths meet him, with greetings and with their pledges, and follow him until the Hall of Romund. There shall the men of Nærikia meet him, and follow him through their land until the Bridge of Uppuga. There shall the Westmen meet him, with greetings and with peace, and follow him until the East Bridge. There shall the men of Upland meet him, and follow him to Upsala.’ The King thus made his tourney or circuit, because one Law could not take judicial notice of the acts done in another. The whole ceremony has the impress of the most remote antiquity. After it had been performed, the law

adds, that the King—if he likes—may be crowned at Upsala; evidently showing that Coronation was considered as a very superfluous process. Sweden exhibits a Gothick federation of jurisdictions in its simplest state. There were no corporate towns. The authority usually considered as municipal, was exercised by the Hundreds, which extended over the entire country. The component parts unite their authority, which, derived from the many, is vested in the few; and the lowest, as well as the highest of the executive magistrates, are named by the judicial oligarchy.

Harold Harfager reduced Norway to the condition of an hereditary monarchy. The popular privileges were gradually impaired in all other respects, under his successors; and the twelve men of the Shires exerted no power of election, unless when the law declared that the throne was vacant, or when the voice of the people was required to support a weak or doubtful claim.* Thus, when Sverre the Priest had prevailed as the leader of the faction of the Birkebeini, he ordered that the Ey-rarthing should assemble. We have already spoken of this folk-mote as a court of justice.* The King proclaimed an Ey-rarthing, and named or summoned twelve men from each of the eight hundreds within Agdanes. And Sverre was named as King in the moot of the eight-hundreds. 'And the land and the lieges were adjudged and sworn to be his, with weapon-touch, according to the old law.' This, however, was rather a judicial inquest than an election. Swerre, the child of the wife of Unn the smith, denied his humble father, and claimed to be the son and heir of Sigurd, King of Norway. Until his twenty-fourth year, he remained in ignorance of his royal descent, of which no other proof was ever obtained, except the assertions of his mother, the fair and frail Gunhilda. Many instances, in which the States and Barons of the hereditary monarchies of the middle ages appear to be invested with a power of election, were possibly only judicial recognitions of heirship. 'If the Kingdom of Jerusalem decends to any collateral heir, but who hath the right of succeeding to the kingdom, he is to assemble the majority and the best of the liegemen of his kingdom, and show unto them how the aforesaid kingdom hath descended to him, and in what manner and by what reason; because, perchance, there may be some who know nothing about the matter, until they shall have heard it from him. And he shall then require them, in general, to yield to him, as the Lord and rightful heir, all that which they owe for their

* In treating on the Gothic Laws of Spain, we have noticed the case of Haco, where these elections are prescribed. *Vide* Edin. Rev. vol. xxxi. p. 115.

‘ fends; first their fealties and other reservations, and then
 ‘ their services, as each doth owe them. And he shall first of-
 ‘ fer to them all which the Lord ought to do, when he enters
 ‘ upon such a seignory. The Barons must then all go apart,
 ‘ and *record* that which the Lord hath required of them, and
 ‘ that which he hath offered to them. If they are certain that
 ‘ he is the right heir, as he avouches himself to be, they are
 ‘ then to come before the Lord—“ Sir—well do we know that
 “ you are such as you have said unto us; and now we are ready
 “ and willing to do what you have required of us—you never-
 “ theless first doing, as you have offered, that which you ought
 “ to perform.” *’

The Northern antiquaries labour most earnestly on the most unintelligible portions of their history. They generally amuse themselves by wielding the hammer of Thor; and the civil polity of their ancestors seems to be considered as a theme of slight importance. Suhm, a doughty and erudite writer of great fame, has produced a shelf-full of ponderous quartos, comprising the history of Denmark, from the time of Dan Mikillati down to the twelfth century, but which do not contain twenty pages of constitutional information. The works which we have consulted do not enable us to define the precise extent of the legislative authority anciently possessed by the Næmbds of twelve. It can however be discovered, that they formed the bases of the States or Parliaments of the Northern kingdoms. The revised Customal of Upland is prefaced by a charter which affords some elucidation of their functions. Birgher, the Lawman of

* ‘ Quant le Royaume de Jerusalem escheit a aucun heir costeer,
 ‘ mais que il soit le droit a avoir le dit royaume, il doit assembler le
 ‘ plus et les meaus de ses homes liges dou Royaume, et lor doit faire
 ‘ assavoir coment le dit royaume li est escheu, et raconter coment et
 ‘ por quel raison; pour ce que il y aura, espoir, aucun qui ne le sauront
 ‘ mie devant ce que il auront oy de luy. Et puis requerre lor en ge-
 ‘ nereau coment il li facent com à Seigneur et droit heir ce que il li
 ‘ doivent pour fiés, tout premièrement les homages et les autres rede-
 ‘ vances, et après les services si com chascun le doit et il euffre bien
 ‘ tout premier a eaus quanque le Seigneur doit faire quant il entre et
 ‘ reçoit tel Seignorie. Les homes doivent tuit aler en une part, et re-
 ‘ corder ce que le Seigneur lor a requis et offert, et se il sont certains
 ‘ que il soit droit heir, enci com il s’en advouç, il doivent maintenant
 ‘ venir devant le Seigneur et dire li. Sire nous conoissons bien que
 ‘ estes tel com vous nous, ares dit, et somes prests et apareillés main-
 ‘ tenant de faire ce que vous avés requis, faisant vous premier si com
 ‘ vous l’en avés offert ce que vous devés. — *Assizes de Jerusalem*,
 c. 284.

Upland, represented to King Byrgher, in the name of the people, that the old laws were hard to bear, and harder to understand; and prayed a remedy for these evils. 'We delayed granting this request,' it is declared by the King; 'for we would not hastily change the old law.' At length he issued a precept, by virtue whereof Birgher the lawman chose (waldi) with him a Næmbd 'of twelve men, the wisest men out of each folkland,' who were to determine what was the old law of the country, and what was to be shaped and set together in the new law. The laws were revised, arranged, and reformed by the twelve men; and the new code, the existing Uplandzlagh, was read to all the people in the folkmote. No dissentient voice was heard, and the people took to the law. A deputation was then sent to the King, requesting him to give his assent; and he confirmed the law book by his letters patent, dated at Stockholm, in the eight days of St Stephen, 1296. With regard to the election of the twelve, it appears from other passages in the laws, that the language employed does not confine election to the Lawman, so as to exclude a concurrent nomination by the suitors of the court. Whether the suitors of the folkmote did or did not exercise a power of legislation together with the Næmbd, does not clearly appear. The re-enactment of the entire code of the country might render such an appeal to the assembled people advisable, even supposing that the power of legislation remained wholly and constitutionally with the twelve Næmbdamen. Similar promulgations, as it is well known, continued in use in other countries; but the multitude, who were supposed to ratify, had no power of giving an effectual dissent. Stiernhook intimates, that when any taxes were required beyond the ordinary accustomed dues, they were imposed by the Lawman, together with a Næmpd of Hofmen and of Bondes, who, in the Rellsting, were invested with the authority of the King's Jury, or grand inquest.*

General Parliaments were rarely held in Norway. The laws are silent with respect to their constituent parts; and, according to the scanty notices of the Norwegian historians, they were subject to many variations. Sufficient evidence, however, remains to show

* Stiernhook is obscure; but this appears to be the sense of his expressions.—'Quoties verò aliquid præter ordinarios fisci redditus populo imperandum erat, hi judices, cum selectis quibus dum ei equestri et plebeo ordine decernebunt, arbitri et censores tributorum, illi quoque de locis publicas disponebant terminos definiebant, canonem imponebant quandoque etiam vendebant, sed in usum provincie, nulla ad id interposita Regis autoritate.'—*De Jure Sueverum*, p. 48.

that the Næmbds of twelve men, were the legal representatives of the estate of Bondes or freeholders. Two Parliaments were thus composed in 1240 and 1257; in which, however, the Bondes were returned, not from the judicial divisions, but from the Lehn̄s or Baronies; and the assembly also contained the King's Iarls, his Counsellors, his Barons, and his Aulic officers. It seems that the independence possessed by the States of each individual province, when separately assembled, was much greater in proportion than the influence which they exerted when called together in a general Parliament. France affords a parallel example. It is therefore in the local records of the Northern kingdoms—if any exist—rather than their general history, that we must seek for the more essential powers of the popular representation. None but the Northmen themselves can pursue these inquiries with success; and, amongst them, the liberties of earlier ages have certainly not been a favoured topic.

The Laugrett of Iceland is the only one of the ancient Northern legislative assemblies which we can study in detail. If the colonists who found a place of refuge in that inhospitable island, framed their government according to the principles of the constitution of Norway, the Scandinavians, before the time of Harold Harfager, were not unacquainted with the balanced polity of an English Parliament.

Iceland was divided into four quarters. In each of the three southern quarters, there were nine ancient Hundreds, otherwise called *Godordar*; but the Northland alone contained twelve of these districts. We have already alluded to the priestly character of the *Godordsman* in the heathen age. After the introduction of Christianity, he was divested of his sacerdotal authority. Sacrifices ceased. The Godord became a parish; and a church was built in the place of the pagan temple. But the judicial attributes of the Godordsman remained unimpaired: his authority in his own hundred he exercised conjointly with a court of twelve men. As Lord of the Hundred, he had a seat by tenure, if we may so express ourselves, in the Laugrett. The Hundred, or Godord itself, descended to the heirs of the Godordsman, amongst whom it was partible; but when it thus divided by inheritance, it appears that the legislative authority was exercised by one heir, in the name, and with the consent of his coparceners. As it was necessary that the quarters should be each represented by the full complement of twelve legislators, three additional judges were 'taken' from each southern quarter, and associated with the hereditary Godordsmen. Every one of these Barons of the Icelandic Parliament, was to 'take' two men from amongst the suitors of his court to bear counsel with

him. The 'Graagas Code' from whence these particulars are extracted, by the help of Ericksen's Danish translation, is not explicit with respect to the mode by which these counsellors were nominated. But there is every reason to infer that they were either named by the suitors of the court of the Godord, or that the suitors performed the duty by turns. Minute directions are given in the code for the arrangement of the benches on the Hill of Pleas. Forty-eight men were to sit upon each of the three benches which surrounded its summit; the fourth in the centre, was destined for the Bishops and the Lawmen. In this court, the 'men of Iceland are to reform their laws, or make new laws if they will.' All agreements for the reversal of outlawries were to be effected in the Laugrett, as well as all other concords which required the assent of the legislature. Forty-eight members made a house; they stood up when they voted; and every one present was bound to vote, to say *yea* or *nay*. Questions were decided by plurality of votes. If the minority consisted of any number greater than twelve, then the voters on each side swore that they had given their votes according to good conscience. This barbarous regulation, unfit for any civilized community, would hardly bear transplanting out of Iceland. But if less than twelve were dissentient, no oath was required from the majority, and the question was carried without that solemn sanction. When an equal division took place upon questions of law, that side prevailed which could number most Lawmen: But this is the only instance in which any of the members had a superior or casting vote. The Laugrett, after the island was annexed to Norway, merged in the Althing. In this court there was a virtual representation without election, a certain number of Bondes attending from each district as a service, and in turns.

Our limits do not allow us to discuss the nature of the Scandinavian Courts and Juries in civil cases. But for the purpose of affording some illustration of our Anglo-Saxon jurisprudence, we shall conclude this division of the subject with the report of a suit brought in the Gulathing, in the year 934, between Egil and Bergaunund, the husbands of the two daughters and co-heiresses of Biarn the son of Bryniolff, a rich Norwegian Bonde. Egil was a wild adventurer, who often visited the court of Athelstane. Biarn died at a time when Egil chanced to be in foreign parts; and Bergaunund, availing himself of the absence of his brother-in-law, immediately took possession of all the land, and all the goods and chattels of the deceased parent, in right of his wife Gunhilda. And he justified this act of violence, by asserting that Asgerda, her sister by the half blood,

was not lawworthy, and that she was consequently incapable of taking any share of her father's property by inheritance or descent.

A folk-mote was held at Guloe, in which the suit was to be decided by thirty-six Doomsmen, called from the three hundreds of Fyrdafylki, Sygnafylki, and Hordafylli. Erik the King was present at the court, which was assembled on a heath, within a ring formed by hazel wands connected by ropes. This weak barrier was called the *V-band*, or boundary of peace. The parties attended, each accompanied by a numerous train of angry friends and followers. Egil opened the pleadings, by stating, that Asgerda, the daughter of Biarn, was one of his legitimate heirs.—‘She was not only *odalborn*,’ he maintained, but ‘nobly born, and of royal race.’ Therefore he craved that the Doomsmen might give for doom, that she was entitled to half the inheritance both of land and fee.—Bergatmund replied, that Gunhilda was born of Biarn, and of Olofa, his only legitimate wife.—‘Thora, the mother of this Asgerda, as I will prove by true witnesses before the King and the Queen and the Doomsmen, was carried off by force from the home of her brother Thoror. A second time was she forcibly taken from the house of Bryniolf. Thora and Biarn then left the land with the pirates, and she was *waived* in Norway. And whilst Biarn and she were both under outlawry, they begat this maid Asgerda. You, Doomsmen, therefore, do I ask to give for doom, that the whole inheritance appertaineth unto Gunhilda. And further, ye must give for doom that Asgerda is the King’s thrall, since she was begotten when her father and her mother were both the King’s outlaws.’

Arinbiorn, the cousin of Asgerda, now spake in her defence, and rebutted this allegation of illegitimacy and of servitude. His father Thoris, he replied, as the uncle and natural guardian of Thora, had afterwards given peace to Biarn. And one of the stipulations between them was, that the child Asgerda should take her full portion of the inheritance; and the King himself had made the parents inlaws, by pardoning the outlawry; consequently she had acquired the rights of legitimacy and of freedom. Arinbiorn produced his suit of twelve witnesses, who were ready to record the agreement between Thoris and Biarn. They had all heard it; and they prayed the King and the Doomsmen to swear them to the truth.

The Doomsmen were willing to administer the oath, provided the King did not forbid it. Erick, much as he was inclined to favour the defendant, was yet visited by some compunctions of conscience. He answered, that he might neither allow nor pro-

hibit the swearing of the witnesses. Gunhilda the Queen, who advocated the pretensions of her namesake, was not thus to be restrained. 'This is a mighty marvel, Oh King,' she exclaimed, 'that thou dost thus allow the stalwart Egil to win every plea before thee. Wilt thou not speak against him, even if he strive to wrest thy kingdom from thee? Egil shall not trample upon our friends. He shall not win the lands of Aunund by the unrighteous doom. Alf—my brother—where art thou with thy meisney?—Let not this unrighteous judgment be pronounced.' Alf and his men obeyed. They rushed into the assembly, brake down the bond of peace, and dispersed the doomsmen; and there was great turmoil in the folkmote, for all the people were unarmed. 'Can Bergaunund hear my voice?' vociferated Egil.—'I do hear thee.'—'Then I challenge thee to the battle trial. Let him who bears the victory in the fight, win the land and the gold;—and, if thou darest not, thou shalt be every man's *niding*.'—Erick, the King, answered, 'If thou art so eager for the fight, we will give thee license now.' Egil declined the duel on a field where his adversary was supported by the kingly power; and he and Arinbiorn drew slowly off together with their friends and followers. But, before Egil quitted the field of violated justice, he pronounced aloud the solemn ban—'Bear witness for me, thou Arinbiorn, and thou Thorder, and all ye men who may hear my words, liegemen and lawmen, and all the commonalty!—I forbid all the lands which Biorn Bryniolfson held.—Let them be not sown or tilled.—I forbid thee, Bergaunund, and all other men, indwellers and outdwellers, thanes and thewes.—And he who doth so, let it be avenged upon him as one who breaketh the law, who angers the gods, and who disturbs the peace;—and they retired indignantly to their vessels, which were ready to receive them on the shore.

We have given this hasty and unconnected outline of Scandinavian jurisprudence, for the purpose of vouching the antiquity, and explaining the notion of analogous and cognate institutions in this country. Spelman has well observed, that the Northern kingdoms are the fields 'from whence so many roots of our law have of old been taken and transplanted.'—'I wish,' he proceeds, 'that some worthy lawyer would read them diligently, and show the several heads from whence these of ours are taken. They, beyond seas, are not only diligent, but very curious in this kind; but we are all for profit, taking what we find at market, without inquiring from whence it came.' It is needless to enlarge upon the elucidation which the history of the English law receives from these sources. Nor

should our incurious negligence, of which Spelman has complained, lead us to question the utility of such researches into its origin. Without seeking for precedents in the Doombooks of Alfred or of Ina, the spirit of Saxon legislation may often afford a salutary lesson both for the exposition and renovation of our modern laws.

We have seen that the Harrad was the primary division of the land amongst the Scandinavians. The Hundred was equally the organic germ of the Anglo-Saxon commonwealth. It was governed in the assembly or moot, which, in the language of the later lawyers, was called either the Sheriff's Leet, or Tourn.* Originally, the Leet of the Hundred was held twelve times in each year. Magna Charta enacted that it should only be summoned twice within that period. The indwellers of the Hundred, who owed suit real to the Leet, appeared in the moot by their judicial representatives. These were the Tithing-men, the Head-boroughs, the Chief pledges, who were respectively accompanied by four good lawworthy men, belonging to the Friborgs which deputed them.† The Saxon Custumal of Henry I., also notices the presence of the Parish Priest; and it seems to intimate that the Lord or his steward might supply the place of the Reeve. As all crimes were committed against the peace of the people, the offender who was untrue to his Friborg, was impeached or accused by his pledges or the delegates of the little community which answered for his default. To use the

* 'The style of the Tourn is, *Curia Franciplegii Domini Regis ten. apud L. coram Vice Comite in Turno quo tali die*, &c.; and therefore, in some books, it is called the Leet of the Tourn. And therefore, when the Sheriff styled Turn. Vicecom. ten. tali die apud L., &c. it was resolved that it was insufficient, for that this word Tourn is but the perambulation of the Sheriff; but, by the right style of the Tourn it appeareth, that the Tourn and the Leet have but one style, and the same jurisdictions.'—*4th Institut.* p. 72.

† This will appear from the Sheriff's precept to the Bailiff of the hundred, by which he was ordered—'quod proclamari facias Visum Franciplegii Domini Regis apud N. tenendum coram me in torno meo tali die, &c. Et interim venire facias ad tunc et ibidem viginti quatuor probos et legales homines, una cum quatuor hominibus et præpositis cujuslibet villæ hundredi prædicti.' In Clackclose hundred, (Norfolk), 'every house did observe its course, and keep its turn yearly, until they passed through their respective towns; some houses finding a man and a half, sometimes two houses joined in finding one man.' This was a virtual representation of the Hundred, and is not without analogy to the right of voting annexed to burgage tenements.

technical term of the law, the offence was *presented* to the Leet jury, or legislative and judicial branch of the assembly.

Ethelred describes this tribunal as composed of the twelve eldest Thanes who are to go out with the Reeve, and to swear on the halidome that they will neither *say forth* respecting the innocent, nor conceal the guilty.* In the more familiar language of Dalton and Crompton, they lose their antique dignity; yet we recognise them, though clad in the russet and gray of the English yeomen, as twelve of the most discreet and sufficient freeholders of the Hundred whom the Sheriff is directed to empannel and swear. The jurisdiction of the Anglo-Saxon Hundred Leet appears to have extended to all cases, whether civil, criminal, or ecclesiastical: But this authority was gradually restrained. William the Conqueror forbade the attendance of the Bishop or the Archdeacon; and ordered, that pleas of the church should no longer be decided there. The power of the Leet was again abridged by Magna Charta. Pleas of the Crown thenceforward were to be held no longer before the Sheriff, the constable, the coroner, or any other bailiff; and the authority of the Leet was afterwards reduced to a shadow, by the extension of the powers given to the justices of the peace, on whom its duties in great measure devolved. It was the peculiar province of the Leet, during the earlier era of our legal history, to repress all offences against the public peace, and to abate all nuisances which affected the public convenience. The Leet-jury inquired into the defects of bridges and roads, and of all impediments to the free course and navigation of the waters. The brewer who brewed bad ale, the butcher who sold corrupt victual, and the baxter who broke the assize, were placed by their verdict in the pillory and in the

* These corresponded to the twelve men of the Räst-næmpd of the Swedish Hærrad. But in this assembly, the tithing-men are absent; and all criminal proceedings must have been appeals at the suit of individuals, except where the Næmpdamen could make presentments of their own personal knowledgc. The Saxon and Swedish oaths bear much resemblance to each other. Ethelred and his Witan enact, 'that man habbe gemot on æleum wæpentace. And gan ut tha yldestan xii thegnas and se gerefa mid. And swerian on tham haligdome the heom man on hand sylle, that hig nellan nænne saoleasan man forsecgean ne nænne sacne forhelan.'

The Swedish oath is nearly in the same language. 'Wii bidiom oss swa Gudh hielpa och the helgadoma wii åbåldom, at wii skuta ingen then sakan göra som saklos er, ingen och then saklosan göra som saker er.'

tumbrel—the common barrator was sent to prison—the common scold was silenced in the ducking-stool—robbers, thieves, night-walkers, vagabonds, scandal-mongers, eavesdroppers, tale-bearers, and leasing-makers, received the punishment appor-tioned to their deserts—and the imaginary offences of the fore-staller, the monopolizer, the regrater, the usurer, the witch, the sorcerer, the necromancer and the wizard, were visited with the salutary severity of the existing laws. All authority re-quired for good rule and municipal government, was vested in the Leet. By attending to the powers exercised by the good men of the Leet-jury, it is evident that they are to be consid-ered as the effective magistrates of the Hundred. Their ver-dict was a sentence, not a trial; it could not be traversed; and it was given for the preservation of the peace, on the denuncia-tion of the heads and representatives of the friborgs. In addi-tion to these powers of judicature, the Leet-jurymen possessed a legislative authority; they enacted *by-laws*, which bound all the suitors of the Leet; and, lastly, like the Gothic Haradz-nempd, they elected their chief executive magistrate, the Alder-man or Reeve of the hundred, who, according to the Anglo-Norman phraseology, was afterwards termed the High Consta-ble or Bailiff.* When the Hundred was held by a Lord, he appears to have received the fines and amerciements which o-therwise would have belonged to the King.

The vestiges, or rather the ruins of the Court Leet, may be traced amongst the ‘old Saxons of the Continent.’ Accord-ing to the *Speculum Saxonieum*, the Gangrave held his Gaud-ing or Moot every six weeks. To this court all the tenants within the Gau owed suit and service. Presentments were made at this court by the Burmeysters or Bailiffs, analogous to those of the Court-Leet. It was their duty to accuse (*rügen*) by name, all who neglected to appear at the court, as well as those who had been guilty of bloodshed and assaults, or of any other crimes punishable by loss of life or limb. Charle-magne tyrannized over the Saxon nation, and destroyed its in-tegrity by the introduction of Frankish colonies. The feudality of the Holy Roman Empire afterwards obliterated the liber-ties of the Estate of Landfolk, in most of the countries in-cluded within its pale; yet we cannot doubt but that the ori-ginal constitution of the old Saxons included an election of the territorial municipality. In the ‘*Marches*’ of the bishoprick

* This power was afterwards exercised by the Justices of the Peace. In Ireland, where the Grand Juries retain many of the old Common law powers, the constables are still elected by them.

of Osnaburg, many townships elected their Holtzgraves as late as the end of the eighteenth century. Churchmen have been wrongfully abused. In the feudal ages, they were meeker and milder than the temporal lords. 'It is good to live beneath the crooked staff,' was the proverbial boast of the subjects of the prelates of the empire, whose peaceful insignia proved unable to defend them against the devouring spirit of military aggression. Hence, it is principally in the Ecclesiastical States that we find the last gleams of Teutonic liberty. In the States of the abbey of Corbey, the *Wruge-Gericht* retained its resemblance to our Anglo-Saxon institutions. The court was also held in the same manner in some other neighbouring tracts, the names whereof are not stated by the learned Justus Georgius Scottelius, from whom we borrow our information. A *Wruge-Gericht* was summoned but once in each year; and, according to custom, it was held in the open air. All the tenants who owed suit and service were bound to attend, each man bearing his best weapon and his lanthorn. Why the lanthorn was required, does not sufficiently appear. Justus Georgius Scottelius seems to suppose, that it was produced to the court in order to testify that each housekeeper had provided with sufficient care against accidents by fire. But we would rather conjecture that it was borne in conformity with some ancient rule relating to the military discipline of the weaponschaw. The commissioners or stewards of the Lord assisted at the court; but the real president of the assembly was the Richter or Judge chosen from amongst the landsfolk. After a singular dialogue had been holden, in which the Judge received a charge from the seignorial procurator, he proceeded to fence the court 'in the name of God and the Suzerain.'—'Right do I bid ye, unrighteousness I forbid ye—once—twice—thrice;'—and he warned the suitors against evil speech and evil deeds. Two tenants, called the Urtheilsträger, the bearers of the ordeal, were associated with the procurator, who read the roll containing the returns of all offences cognizable by the court, and which had been committed within the year. The roll was read by the procurator to the twelve 'Urtheilsfinder,' who were chosen from amongst the oldest and most respected of the tenants. Upon each 'Wroge' or accusation, the Twelve pronounced judgment. Unanimity was required. On slighter offences, the sentence was immediately recorded by the judge. But if the charge was grave, or attended with any extraordinary circumstances, the offender was declared to be in the Lord's mercy; and the seignorial officers considered of the sentence in the course of the afternoon. Those who had failed

to attend the court were also declared ‘in mercy.’ The Court proceeded to judgment simply upon the denunciation. The defendant was not legally allowed to be heard in his defence. By abuse, as Scottellius says, he might purchase that privilege; but he paid a fine to the judge for permission.

We have hitherto spoken of the Leet of the Hundred; but there were certain districts locally included within the Hundred, which nevertheless constituted independent bodies politic. The burgesses, the tenants, the residents of the King’s burghs and manors in ancient demesne, owed neither suit and service to the Hundred Leet. They attended at their own Leet, which differed in no essential respect from the Leet of the Hundred. The principle of frankpledge required, that each tithing should appear by its head as its representative; and, consequently, the jurymen of the Leet of the burgh or manor, are usually described under the style of the twelve chief pledges. The legislative and remedial assembly of the burgh or manor, was constituted by the meeting of the heads of its component parts. The Portreeve, Constable, Head-borough, Bailiff, or other the chief executive magistrate, was elected or presented by the Leet-Jury. Offences against the law were repressed by their summary presentments. They who were answerable to the community for the breach of the peace, punished the crime. Responsibility and authority were conjoined. In their legislative capacity they bound their fellow-townsmen, by making *By-laws* in the manner which we have before mentioned.

Giles Jacob, the blunderbuss of law, ‘the methodically learned John Kitchin of Gray’s Inn, Esquire and double reader,’ and very many other worthy compilers of the same kith and kin, have furnished a full account of the nature and duties of the Leet; but the functions of this tribunal have been unaccountably forgotten by our historians in general, who seem to be all ignorant of its existence. None of them at least have noticed the inferences which are to be drawn from its powers and authority as exercised in ‘boroughs by prescription.’ Hume informs his readers, that ‘the greatest boroughs were, at the time of the Conquest, scarcely more than country villages; and that the inhabitants lived in entire dependence on the King or great Lords, and were of a situation little better than servile. They were not then so much as incorporated; they formed no community; were not regarded as a body politic; and, being really nothing but a number of low dependent tradesmen, living together without any particular civil tie in neighbourhood together, they were incapable of being represented in the States of the kingdom. Even in France, a country which

‘made more early advances in arts and civility than England, the first corporation is sixty years posterior to the Conquest, under the Duke of Normandy: And the erecting of these communities was an invention of Lewis the Gross, in order to free the people from slavery under the Lords, and to give them protection by means of certain privileges, and a separate jurisdiction. An ancient French writer calls them a new and wicked device to procure liberty to slaves, and encourage them in shaking off the dominion of their masters. The famous charter, as it is called, of the Conqueror to the City of London, though granted at a time when he assumed the appearance of gentleness and amity, is nothing but a letter of protection, and a declaration that the citizens should not be treated as slaves.’ Hume borrowed most of his opinions from Brady. That perverse, though acute and learned writer, maintained, ‘that whoever would peruse his treatise, would confess that the English burghs had nothing of the greatness and authority they boast of, but from the *bounty* of our ancient Kings and their successors, notwithstanding any other confirmations or acquired rights they may allege; and acknowledge, that prescription and pretended immemorial customs or usages, avail not, when there are charters or other records which show, that in this case (of what weight soever they may be in any other) they are mere conjectures, words of course, and popular assertions of such men as either know not how, or would, or for their more gainful employments could not, look into these great monuments of antiquity and discoverers of truth.’ And, proceeding in the same strain, he adds, ‘It is easy for any man to observe, that, in the Saxon times, the burgesses made but a small figure in the nation. The burghs were not distinct commonwealths or governments, nor the burgesses statesmen, or people of much interest, whatsoever some popular or factious writers, who scribble by rote, and according to their own fancies, have delivered to the contrary.’ It will excite but little surprise, that such language should have been held at a period when James had cancelled the charters of London, and was labouring to disfranchise all the corporations in the kingdom. Brady was pleading in defence of the antipopular side of the question. He managed the cause with address; and Hume and others have too readily assented to his propositions. The amount of interest possessed by the boroughs in the State undoubtedly fluctuated; but it has always borne a due proportion to the relative influence of the other classes of the community. Fitz-Alwyn carved his peacock;—Sir John Barnard supped his mustard;—and the present worthy occupant of the City Chair

plunges in the nectar and ambrosia of callipash and callipce. The Portreeve trotted on his courser;—My Lord Mayor rides in a fine gilt coach.—In the course of time, the dignity of the Chief Magistrate of the City of London has much changed its garb; but we may be certain, that he always enjoyed great rank, worship and honour.

A fruitful source of error, in all historical inquiries, is found in the translation of ancient terms by modern ideas. We imagine that a *town*, * according to the import of its name, must consist of houses, built side by side, and standing in streets, rows, or lanes. But the primeval town was a tract of land enjoyed by a community; and it mattered little whether the dwellings were placed side by side, or disposed up and down the township. Nay, a town may be a very good town according to the old law, though not a house remains standing. It is equally erroneous to consider, with Hume, that trade formed the characteristick of the burgess. He may have cheapened and chaftered, and bought and sold; but, in his primitive occupation, he was a tiller of land: but it was the land, the burgage, which gave him his qualification.

Wherever a Leet existed, the suitors and the jury formed a complete and independent body politic. Upland towns, possessing no Leets, and appearing by their reeves and four men at the Leet of the Hundred, formed a component part of the body politic of the Hundred. Boroughs, towns and manors in ancient demesne, as governed by their Leets, formed communities in their own right; they possessed every character which our later law books assign to corporations; and no essential difference can be pointed out in their privileges. The ancient borough, and the manor in ancient demesne, were alike severed from the body of the shire. The tenant of the manor, and the burgess of the borough, were alike exempted from tolls and dues; and the villain who dwelt for a year and a day within the mere stones of the manor, was as privileged in the enjoyment of his freedom, as if he had been protected by the walls

* In Ireland, the word *town* retains its real sense; and, as Miss Edgeworth informs us, English visitors are often much perplexed by its application; and it was probably in use amongst the Belgic Britons before the Saxon invasion. *Ton*, in the ancient British language, is still applied to a large tract of pasture land. The Gothic *By*, is an equivalent term, perhaps, of somewhat wider import. Hence the law of the town is called the *Bylag*, or *By-law*—an expression of such remote antiquity, that we find it applied by Jornandes to the laws of Diccencus,

of the city. Madox says, that 'a town not corporated might be a community having perpetual succession, as well as a corporate town.' This is fully shown by the muniments which he has collected; but they prove more. They prove that none of the ancient communities having perpetual succession, were corporations, according to the modern acceptation. We find grants from the King and his heirs, to his '*probi homines*' and their heirs, to his lieges and their heirs; but no words of incorporation. The expression 'body corporate,' indeed, is quite a novelty; it came into use in the reign of Henry VI. The charter of the King was not required to give coherence to the body politic, though he might protect it and add to its stability. It is a cavil to assert, with Hume and Brady, that the well known rescript of King William to the City of London 'is a mere instrument of protection, rather than a charter.' His authority was not needed to unite the burgesses into a community. All his subjects were already united in their several communities or Leets, by the bonds of the common law: And the same style was employed, whether the King was making a pact with the inhabitants of the burgh, the shire, or the kingdom.

'It is to wit,' Littleton saith, 'that the ancient towns, called boroughs, be the most ancient towns that be within England; for the towns that now be cities or counties, in old times were boroughs, and called boroughs.' No rational doubt can be entertained, that the ancient Leets were equivalent in all respects to corporate jurisdictions. Corporations, and their powers, have been superinduced upon the Leet. The Saxon frankpledge exists beneath the charters of the Houses of York and Lancaster. The magistrates of all corporate towns were originally the members of the Leet-jury, though they have received new names, and have been invested with greater authority. Hence we usually find twelve, or sixteen, or twenty-four jurats, or capital burgesses, who have taken the places of the jurymen and capital pledges of the common law Leet-courts. In some corporations, the common law election of the chief magistrate is yet imitated. At Yarmouth, the Mayor is elected by an inquest, or jury of twelve, who are enclosed without meat or drink, fire or candle, until nine have agreed upon a presentment. The Bailiffs of Bridgenorth are chosen by the verdict of a jury of fourteen out of the twenty-four Aldermen. More instances might possibly be discovered in the rolls and records of our towns and boroughs, which, as yet, have been wholly neglected by our constitutional writers, though they afford the principal materials for composing a history of the Constitution. It has been usual to deny the existence of any effective

municipal government in the Burghs of the Anglo-Saxon age. Domesday is consulted; and Domesday contains no positive evidence that the burghs possessed an internal and popular magistracy. But we have no reason to expect any notice of such municipal powers in that great record. The authority of the Leet-Jury was a common law right,—appurtenant to all the King's burghs and towns and manors, not being parcel of the Shire. The Leet-Jury was not a peculiar or special privilege or immunity; or which affected the general prerogatives of the King, or the duties of the people. Domesday does not notice the Hundred court, or the County court, because it was unnecessary to inform the King, or his Justiciaries, of the existence of the tribunals which were in constant action throughout all the land. It was equally unnecessary to make a return of the Leets, which they knew to be inherent in every burgh. Where any special municipal jurisdiction existed, as in Chester, Stamford, and Lincoln, then it became necessary that the franchise should be recorded. The twelve Lagemen in the two latter burghs, were probably hereditary Aldermen. In London, and in Canterbury, aldermen occasionally held their sokes by inheritance. The negative evidence extorted out of Domesday has, therefore, little weight; but it will perhaps be answered, that we have direct evidence that the right of electing magistrates resulted from royal concessions. The charters of London will be quoted, by which King Richard and King John permit the citizens of London to elect their Mayor: But a very slight consideration will show, that this proof ought to be expunged from the argument. During the middle ages, it was the invariable style of all charters, ordinances and statutes, to ratify existing rights by expressions importing that a new grant had been made; to confirm existing institutions by words which seem to imply that they were then newly created; to declare the existing law in terms which appear equivalent to a new enactment. This is so well known, that it will be sufficient to remind our readers of the fact. Therefore it may be assumed, that the Portreeves, or Bailiffs of London, were elected or presented before the confirmatory charters were sealed. It would be somewhat singular indeed, if the metropolis had been deprived of a right which Bramber, and Honiton, and Cocker-mouth, have exercised from time immemorial in their common law Courts, in Courts which are coeval with the Constitution.

London, as far as our annals reach, possessed a magistracy whose functions were more ministerial than those attributed to the Leet-Juries. The same remark may be applied to some of our large towns and cities. The Courts of Aldermen, in these

instances, throw additional light upon the common law origin of corporate jurisdictions; and confirm the supposition, that all corporate magistrates are superinduced upon the leet. Had London been equivalent to a single Hundred, the city would have had *one* judicial and administrative officer for its President. But my Lord Coke justly observes, every *Ward* in London is as a *Hundred* in a *Shire*, and every *Parish* in the *Ward* is as a *Vill* in the *Hundred*; consequently every *Ward* had, and yet has, its own *Leet-Jury*. In some other towns, we can mark the year when the common law *Leets* were changed into as many *Wards* under corporate officers. The *Wardmote* corresponds with the *Hundred gemote*, and the *Ward inquest* with the *Leet* of the *Hundred*. Each *Ward* elected its *Alderman*, who held his office for one year; and these *Aldermen*, when congregated together, formed the executive and legislative tribunal of the city. The wards concurred individually in the choice of the *Mayor*; the elections were made ‘*per commune consilium*;’—of the *Mayor* and *Aldermen*, ‘*per assensum duodecim proborum hominum singularum wardarum*.’ The *aldermen* were chosen by the same bodies; and the ‘*probi homines*’ were equally the electors of the *Commons*, two of whom originally appeared for each ward. We cannot positively affirm that these bodies of twelve men were the *Leet-Juries* of the wards; but we believe that they were. Their relation to the Gothic *Næmbd* is sufficiently apparent; and we shall hereafter see the analogy between the election of the *Common Council* of the *Wards* or *Leets* of the city, and the *Great Council* of the kingdom.

When the *Leet* lost its authority, another jurisdiction arose in its stead, new in its form and appearance, but constitutional in its spirit. Corporations were erected in every considerable borough. The people were advancing in prosperity and opulence. Our English Kings, therefore, renovated the powers of the popular aristocracy, the elective magistracy of the burgh. Municipal magistrates assimilated themselves to *Justices of the Peace*; and the entire system of municipal administration necessarily took a new form. However, there are still several great towns which did not obtain charters of incorporation. These, therefore, have no other local magistracy, in the strict sense of the word, except the *Court-Leet* and its common law officers. Westminster and Manchester may be instanced, where the want of a corporation is supplied by stipendiary magistrates. Experience, we think, has shown, that the constitutional system of replacing the *Leet* by a corporate jurisdiction is the best. Corporations become full of ugly vices, which nestle in the warm scarlet gowns,

and cling to the glittering golden chains. We know it. But, with all their jobbing and corruption—all their hot and cold fits of loyalty and disloyalty—all their alternations of faction and servility—all their petty spirit and oligarchical pride—they are yet productive of great benefit to the State. They keep men in activity who would otherwise do mischief, or do nothing. If we had no corporations, the great towns would have no municipal government at all, except a stipendiary bench: and any stimulus is better than the expectation of receiving so many pounds, shillings and pence, at the end of the quarter. Experience has shown, that the country squire cannot be induced to leave the poacher at rest, and to sit day after day in a town-hall issuing warrants for petty larceny: But the Alderman will undertake the task with gladness; he is repaid by the pleasures of sovereignty, which enable him now and then to help his friends—or now and then to plague them—but all in a lawful way. Vanity teaches him to flog the sturdy beggar, and to boil soup and provide blankets for the starving workmen. Avarice whispers, that if he is obedient to the requisition, his son Tom will be sure of his election for the Chamberlainship. Moral failings become purified in action into public benefits. As long as the business of the world must be done by the men and women who live in it, it is quite idle to complain of the coarseness of the machinery.

The Leet could only take cognizance of offences committed within its jurisdiction; nor does it appear that its officers could follow an offender into a foreign visne. Still less could it afford a competent remedy against the oppressions of the people. For these purposes the Leets resolved themselves into the Shire-moot, an assembly which, like the Leet of the Hundred, was formed by a virtual representative of the people. Its members are enumerated in the Customal of Henry I.—*‘Intersint autem Episcopi, Comites, Vicedomini, Vicarii, Centenarii, Aldermani, Præfecti, Præpositi, Barones, Vavasores, Tangrevii, et cæteri terrarum Domini, diligenter intendentes, ne malorum impunitas, aut graviorum pravitas, vel judicium subversio solita miseris laceratione conficiant.’*

The Aldermen had been elected by their juries; and, as in the Hundred, the upland towns were represented by the four men and the Reeve, or by the Lord within whose friborg their residents were included. *‘Si quis baronum Regis vel aliorum comitatui secundum legem interfuerit, totam terram quam illie in dominio suo habet acquietare poterit. Eodem modo est si dapifer ejus legitime fuerit, si uterque necessario desit, Præpositus et Sacerdos, et quatuor de melioribus villæ adsint, pro omnibus qui nominatim non erunt ad placitum submoniti.’*

The earls, barons and vavassors, Lords of land, were called in their own right; the Church was represented by the Bishop of the diocese, and by the parochial clergy; and all were required to be diligently attending, 'lest that the lewdness of offenders, the misdemeanour of sheriffs, and the ordinary corruption of judges, make a miserable spoil of the people.'

After the Curia Regis had established its authority, the remedial jurisdiction of the Shire-moot continued in abeyance when held as the County Court before the sheriff. But when convened before the King's Justices Itinerant, all its Saxon dignity seems to have been revived. The proceedings of the Court of the Justice in Eyre are such as to justify the assertion, that it was, in effect, nearly the same with the Saxon shire-moot. All the suitors attended who are named in the Custumal of Henry I., and they were to perform the duties which the Custumal enjoins. Few of the records of the proceedings before the Justices Itinerant now exist; and none of them have been printed. For the purpose of elucidating this portion of our polity and jurisprudence, a few passages may be extracted from the record of the Eyre of Northampton, held on Monday next after the morrow of All Souls, in the third year of the reign of Edward III., before Sir Jeffry L'Escrop, Lambert de Trikingham, John de Cambridge, John Randolph, and John de Radenhale.* All the justices and great men of the county, and all those who appeared on behalf of the Commons, according to the summons of the Eyre, being assembled, Sir Jeffry L'Escrop opened the session by the following address. 'Archbishops, Bishops, Abbots, Priors, Earls, Barons, and all you others who here are come by cause of this Eyre,—hearken unto the commands of our Lord the King.'

The commissions were read; and the Chief-Justice then ordered the sheriff to return the writ of common summons. This was a writ, by which he was ordered to summon—'Omnes Archiepiscopus, Episcopus, Abbates, Priores, Comites, Barones, Milites, et omnes libere tenentes in comitatu tuo, et de qualibet villa quatuor legales homines et præpositum, et de quolibet burgo duodecim legales burgenses per totam ballivam tuam, et omnes qui coram Justiciariis Itinerantibus venire solent et debent'—who were to be at Northampton before the Justices on the day therein named. To this clause, which designates the branches

* The MS. which we use formerly belonged to Sir Matthew Hale, and is now in Lincoln's-Inn Library, (No. 72.) The entries are partly in Latin and partly in French; and they are more in the style of a Parliamentary roll than of a judicial record.

of the Court, the following is added, which explains the purposes for which it was assembled—‘*Precipimus etiam tibi quod publice proclamari facias, quod omnes conquerentes seu con- queri volentes, tam de ballivis et ministris nostris quam de ballivis et ministris aliorum, et aliis quibuscunque, veniant coram præfatis fidelibus nostris, ad præfatum diem et locum, ad querimonias ibidem ostendendas, et aliquot competentes emendas inde recipiendas, secundum legem et consuetudinem regni nostri, juxta ordinationes inde factas, et juxta tenorem statutorum nostrorum, et juxta articulos per nos eisdem fidelibus inde traditos et injunctos.*’ The return of the sheriff followed. It stated, that he had made the proclamations as required by the writ. He then delivered to the Justices his rolls, containing the names of the Sheriffs and Coroners who had served since last Eyre—‘*et omnia nomina magnatum, videlicet Episcoporum, Abbatum, Priorum, Comitum et Baronum, in una cedula per se—Et omnia nomina libere tenentium de toto comitatu, videlicet de quolibet hundredo per se—Et omnia nomina ballivorum hundredorum.*’ The Court having been thus formed, the Chief-Justice, as a token of his supremacy, required the sheriff, and all the bailiffs, to deliver up their wands of office; which, however, he immediately restored to them. He then delivered the following charge. We transcribe the speech, as affording a lively illustration of the manners of the times, and their grievances.

‘*Beaux Seigneurs, les uns de vous qu’estes cy venutz, savez la cause pourquoi cest Eyre est ordeignée, et plusieurs nenny.—Al Parlement tenu à Northampton, plaintes vindrent à nostre Seigneur le Roy, de toutes costés du Roiaulme, que le peuple fust si malement demcignée par tous oppressions de grands, et par extorçons de meyn-tenours, duresces de bailiffs, et homicides et larcines, faitz par toutes parties en le Roiaulme; de quoi plusieurs de toutes parties qui se sentirent grevés prierent de ceo aide et remede. Les plaintes oyz, le Roy et le Grands a ceo Parlement esteauntz, par commune assent ordenerent en tous parts en le Roiaulme, en chascune countée, Gardiens de la paix, pour tiels torts, trespas, homicides et felonies redresser. Nent aresteaunt la dite ordeignaunce, al conseil le Roy tenu a Wyndesore, ou assembles furent tous les Grands de la terre, les plaintes de tous parties vindrent al Roy des meffaits avandictz, plus estreitement que avant ne fesoient, priauntz des meffaits remede. Pour quoi le Roy pria a tous ceux qui illoques furent assembles, que eux ordeignerent voye, comment la paix de sa terre poet mieux estre saulvée et gardée, et comment tiels meffaits, en nule maniere purreient estre redresser, entres lesqueux cestes choses furent parlez et debatuz. Et monstre fut illoques que la paix ne fust mie gardée ne maintenu comme avant cel temps avoit esté, en temps d’autres Roys. Pour ceo, que en temps des progeniteurs cesti Roy, eyres soleient estre de sept ans en*

sept ans, par tout le Roiaulme, par quoi la paix de la terre fust bien maintenue et gardée, et droit fait aux riches et aux povres. Pour quoi les Grands illoques assemblez, prirent al Roy que a ceo voulust accorder. Et le Roy a leur requeste a ceo accorda.

Par quoi entre vous Grands, nous vous chargeoms de par le Roy, et prioms commie a nos Seigneurs et amys, que vous ne soustenez mainteneurs de mauvaies querelles, ne gents rectés de mauvaie fame. Mais que vous soiez aidantz que la paix nostre Seigneur le Roy soit gardée, et que les dits mcfaiseurs soient punitz, issint que cours de-lei se fasse comme avant ces heures fust fait par raison del Eyre avant dict. *

Proclamation was made that no fair or market, or county court, was to be held during the sitting of the Eyre; and the coroners, and their heirs, were ordered to bring in their rolls. On the second day a similar direction was given to the sheriffs; and the bailiffs Hundredors and the bailiffs of franchises were sworn. Monseigneur went into another house on the third day, where he administered the oath to the two men out of each hundred who had been presented by the bailiffs. They were sworn to elect twelve 'de eux et autres de leur Hundreds,' by whom the presentments were to be made. This business appears to have occupied the whole of the third day. Monseigneur re-

* To render the charge more intelligible to our readers, we have slightly modernized the orthography, but without altering the language. Until the reign of Henry VI., the Anglo-Norman dialect appears to have been written and spoken in this country with considerable purity. The learned Abbé de la Rue, a most competent authority, is of opinion that the cultivated *Romance* of England soon obtained a greater degree of precision and clearness, than the vernacular dialect of France. Chaucer, it is true, speaks with fashionable contempt of the proficiency attained by his Nuns. It may be easily conjectured, that the 'Jrenshe,' which passed as correct amongst the Dames of the Convent of Stratford-atte-Bowe, would differ from the technical fluency of Westminster, or the ornate elegance of Windsor. Many archaisms naturally retained their currency in the law French, which were discarded by writers whose works were intended for the solace of the Damsel's Bower and the Baronial Hall. Gower did not think it fit to tune his lays of love in the phraseology employed by Judge Herle or Judge Hengham, when mooting a case of forcible entry or novel disseizin. His sonnets possess so much merit, that we cannot help regretting that the correct edition of them, lately published by his noble descendant, should be confined to the members of the Roxburghe Club. After times, the law French became amusingly barbarous. The mixing of French, with the French pronunciation, was a finishing oncepce in the Inns of Court.

turned to the ‘maison de la corone,’ where he assembled the dozeinciers separately, and swore them; and delivered to them the articles of the Eyre, ‘that is to say, to each twelve a roll.’ The entries follow—actions real and personal—pleas of liberties—and presentments. The last day of the Eyre was devoted to public business.—Monseigneur had prepared a bill, containing all the ‘generales oppressions’ of the county: the most important of these grievances were certain extortions of the sheriffs, against which he provided a remedy. Amerciaments of Englescherie were affeared: And, lastly, Monsieur Simond de Crayton made his speech to Monseigneur, in the name, and on the behalf, of the Commons of the shire. ‘Sire, pur ceo que plusieurs *fol*s de ceo Counté se sont retret depuis la crie de cest Eyre, qui sont a revenir après votre lever, avec des *fol*s del Counté de Bedeford ou le Eyre sera. Desquieux *fol*s moult à douter ceo pays si ne soit aidé par vous. Nous prions que vous veuillez ordonner autres six leals gardiens de la paix qui veuillent et peuvent maintenir et garder le pays en tiel quiete comme vous l’avez mené:’—which prayer was granted by Monseigneur—and the Eyre ended.

Until the nature of a parliamentary barony be discovered, it is useless to conjecture whether the same tenure compelled the owners to assemble at the shire-moot in Eyre. Bracton uses expressions which seem to indicate, that the attendance of the Barons at the Eyre resulted rather from the importance of their property in the land, than from its tenure. They were the Magnates of the county—men of estate—Lords who, from their influence, had the rest of the county at their beck and bidding, and who also appeared in respect of the franchises which they administered.

A general summons to all the freeholders of the county could only be obeyed by delegation. It could not be expected that every Knight was to abandon his mansion, and every sokman his plough. The writ of summons was therefore sufficiently obeyed if the jurors appeared for the bodies of their respective Hundreds, together with the reeves and four men of the vill. In the reign of Edward III., the bailiff, as is mentioned in the Northampton record, was the summoning officer. He was sworn to ‘elect’ two men of the hundred, who, upon their oaths, elected twelve, or sometimes sixteen, representing the Leet or grand inquest of the Hundred.* As the lords of franchises which were not of the

* The twelve hundreders may have been chosen from amongst the representatives of the upland towns. At different periods, the practice was not uniform. In the Eyre of the 5th Richard I., the mode

body of the Hundred were ordered to return the names of their bailiffs, it is to be supposed that the juries of franchises were returned in the same manner. The Burghs in ancient demesne represented their Leets by the twelve who answered for them. With respect to the four men and the Reeve, who answered for every upland town, the proceedings in the Leet, and the directions in the statute of Exeter, show, that it was the duty of these representatives of the friborgs to make their presentments to the juries of their respective Hundreds, who, in their turn, made the presentments to the court. The Juries could also make presentments upon common fame, or of their knowledge. This custom was retained in Ireland, where, according to the ancient Common Law, the grand juries were accustomed to find bills without examining witnesses for the Crown, until the practice was abolished by a recent statute, (56 Geo. III. c. 87.) One Leet had no jurisdiction over another; they were co-ordinate authorities. Hence the distinct juries of the Hundred, of the Burghs in ancient demesne, and of the Franchises. The Leets of the Shire were thus aggregated in a judicial assembly, though each still retained its several jurisdiction.

The attendance on the Leet-juries, and on the township inquests, was a burden. It was almost as grievous as service in Parliament was considered to be, when the sheriff took good bail from every member of the House of Commons upon his election, to ensure his appearance at the return of the writ. Each resiant within the Leet seems to have been bound to perform his duty in his turn. Sometimes the Bailiff Hundredor would summon a man who had recently served; and many good statutes were made to redress the hardships and oppressions

of election was more complicated. ‘*In primis eligendi sunt quatuor milites de toto comitatu, qui per sacramentum suum eligant duos legales milites de quolibet hundredo et wapentaccio. Et illi duo eligant super sacramentum suum, decem milites de singulis hundredis vel wapentaccis, vel si milites defuerint, legales et liberos homines: ita quod illi duodecim in singulis respondeant de omnibus capitulis de toto hundredo et wapentaccio.*’ There no mention is made of the four men of the upland towns, nor are they mentioned by name in the writ in the register. ‘*Præcipimus tibi quod non omittas propter, &c. Quin venire facias coram nobis tali die de quolibet hundredo et burgo comitatu tui 24 tam milites quam,*’ &c. But they probably attended as a matter of course, under the general summons. It was one of the charges against Roger Mortimer, that he made the knights of counties charge a man at arms upon every town that answered with-
in Eyre, by the four men and the reeve.

occasioned by undue summoning. On other occasions, an able and experienced juryman might be virtually elected by the understanding of the friborgs. In the boroughs, popular election was generally diffused. But in whatever manner the members of the Leet were returned—whether to the Hundred or to the Burgh-mote, or to the shire-moot—whether with their consent, or against their will, *they were actually and truly the representatives of the Commons.* In an Anglo-Saxon kingdom, the great council, if representative, could only be a convention of the hundreds. We have seen that the Leet-courts had a remedial and legislative authority in their own sokes; and there are indications which do not negative the supposition that they retained an equivalent authority when assembled.

Much light will be thrown upon the constitution of the High Court of Parliament during that period, when its history is most uncertain, by considering the composition of other legislative and remedial Courts or assemblies, which have also their origin in the principles of the Common law. Thus, a remarkable affinity to the Anglo-Saxon shire-government, may be discovered in the constitution of the Norman Isles. Within their contracted limits, a parish becomes the equivalent of an Hundred. Jersey is divided into twelve parishes, each whereof has a Constable, who holds his office, to which he is elected by the votes of the people,* for three years. In his executive functions, he possesses much higher authority than an English constable. Twelve ‘or more principal householders,’ as it is expressed by Falk, are ‘sworn to be always ready at his call, when the public service requires.’ And in Guernsey, besides the ‘dozeineers,’ he has also a jury of vintaineers, usually twelve in number, who perform the duties of the English leet jury. Every ‘vintaine,’ as the name imports, was supposed to consist of twenty families. The Constables thus elected, represent their respective parishes in the Convention of the Estates of the Island; and they also form the grand jury of the Island. A traverse to their indictment is tried by a petty jury, summoned out of the visne and the two adjoining parishes. The supreme court of judicature in Jersey consists of the twelve Jurats. In the Constitutions of King John, they are called Sworn Coroners; but the common people know them by the Norman name of Justiciars. According to the Constitutions, they are directed to be elected from amongst the natives of the island, ‘per ministros domini regis et optimates patriæ.’ Who the Optimates ought

* We have not been able to ascertain whether the election is made by all the residents, or whether it is confined to the freeholders.

to be, has lately excited much discussion both in the island and before the Privy Council. The Jurats are chosen by virtue of a precept issuing from the *Cour Royale*. All the freeholders are voters; and the votes are taken on the Sunday next after the receipt of the precept, as the people come out of church; and the candidate who has the majority of suffrages throughout the island, is elected. It does not appear whether, anciently, a Jurat was assigned to each parish; or whether, according to the present practice, they were always returned for the body of the island. As they correspond to the Aldermen of the wards or leets of a town, it is probable that originally there was a Jurat for each parish. The office is held during life, or until removal for lawful cause. Sitting in the *Cour Royale*, the Jurats there exercise their civil and criminal jurisdiction. Their constitutional authority, as it is observed by Falle, also ‘enforces on all persons a general obedience to the laws; enables them to watch over the public tranquillity; to extend their care to every thing whatsoever conducing to good order and polity.’ As a consequence of this municipal authority, the Jurats have the power of making ordinances for the good government of the people. In their legislative capacity, the twelve Jurats are also members of the States. The Church is represented by the twelve Rectors of the twelve parishes; and besides the representatives whom we have named, the King was to have no provost of the island, ‘*nisi per electionem patriotarum.*’ Such is the Constitution of Jersey, as settled by King John after the loss of Normandy. His ordinance does not notice the authority of the constables; but no one can imagine that they were created in a more recent age.

The absence of written documents has involved the early history of the constitution of the Isle of Man in great obscurity. ‘As for the writing of laws,’ it is declared by the Deemsters, in the year 1422, ‘there was never any written since King Orre’s days, but in the time of Michael Blundell, that we know of.’ Even until the middle of the last century, the defendant was cited to appear by the delivery of a piece of stone or slate, upon which the deemster scratched the initials of his name—his runes. Yet, scanty as the historical documents are, they are still sufficiently ample to afford a satisfactory proof of the connexion between remedial and legislative authority.

In the statute-book, the twenty-four Keys, anciently called the *Taxiaxi*, appear with the Deemsters, and declare the laws at a Tynwald Court, held in the year 1422. In the same year they assembled on the feast of St Bartholomew, on the hill of *Renewing*, before the Doughtful Lord, Sir John Stanley, King of Man

and the Isles, when they at once made ordinances, and passed as an inquest upon several delinquents. The island was divided into six Sheddings or Hundreds, each of which originally contained an hundred tenant holdings; for the fee-simple of the land remained in the lord. All the Commons of Man elected twelve out of each Shedding; from whence, as it is said, Sir John Stanley nominated the twenty-four Keys, or four from each Shedding, in the year 1430. Yet another court of all the Commons of Man, holden at Ruthven on Tuesday next after the twentieth day of Christmas 1430, was composed of a greater number of members. Six men of every Shedding were chosen by the whole 'Commons of Man,' who asked and besought 'Henry Byron, Lieutenant of Man, that the points asked in the Tynwald next before holden, should be granted and confirmed as law, if our gracious Lord will be contented.' In the which court—'The said Henry Byron, sitting in the said court, granteth and confirmeth, in our Lord his name, all the said askings, to be holden as law.' At this court they also passed as a judicial inquest; and William M'Cawley and others were arraigned before them. Many laws were declared by an inquest of twenty-four, before the Abbot of Rushen, the Lord's officers, and the Deemsters, at the 16th April 1504. Afterwards they assimilated their style to that of the English and Scottish Parliaments. The laws entered in the Exchequer-book of Man in the year 1586, are enacted by the deemsters, 'by the advice and consent of the twenty-four Keys.' The enactments, however, were still made upon *oath*; in other words, the Keys were still a jury.

At the Court of Tynwald, holden on the 24th day of June 1637, their old character is obliterated, and the statutes were enacted, established, acted and confirmed, by the Sovereigne liege Lord of the Island, James Strange, and by the Barons, twenty-four Keys, and the Commons and inhabitants of the island. A few years afterwards, however, an extraordinary session of Tynwald was held, according to the ancient traditionary law. The Bishop and his clergy, the officers of the Lord, the twenty-four Keys of the island, and four men of every parish, assembled to advise and consider of certain grievances of the Church and Commons of the isle; and they agreed to abide by the order, doom, and decree of their liege Lord, James, Earl of Derby. To carry this into effect, his Honour gave order that a jury, or grand inquest, should be chosen, whereof twelve of the twenty-four Keys should be part, and twelve of the four men of the parishes there present should be other part, which were empannelled and sworn to present all such wrongs and abuses. They

returned their presentments before the Lord at Castle-Rushen, at the 30th April 1643. He affixed his hand and seal to the inquisition, and to the decree which was entered at the end of each article of the presentment. The Bishop and Clergy, the twenty-four Keys, and the four men of the parishes, assented thereto, and signed the record; and the *presentment then became, and now is, the law of the island*. At the Shedding-court of Man, the presentments were carried up to the grand jury by four men from each parish, just in the same manner as in our Hundred court.* Hence we may infer, that at this Tynwald Court they also made their presentments to the grand jury of twenty-four, empannelled to pass between the Manks nation and the seignorial officers. It also seems that they were the Commons of the island, who are obscurely indicated in the Tynwald roll of 1637, and in the ceremonial of the inauguration of the King of the Island. The Keys now elect themselves; yet, in the words of Sacheverell, ‘they are the representatives of the country, and ‘in some cases serve as the grand inquest of the nation. They ‘are the last traverse in all cases of common law; are present ‘at all trials for life or death; and, in conjunction with the governor and officers, make the legislative power of the nation.’

The Keys of Man correspond with the Leet Jury. And in the proceedings of the Tynwald, we can distinctly trace the mode in which remedial presentments became laws. Nearly the same development of jurisdiction is manifested in the Constitution of the Stannaries. Carew, who wrote in the reign of Elizabeth, states, that the Stannators of the whole shire of Cornwall are divided into four quarters, in each of which is a court; and ‘the ‘manner of trial consisteth in the verdict given by a jury of six ‘tinnners.’—‘In matters of important consequence, appertaining to the whole Stannary, the Lord Warden issues his precept to empannel a jury of twenty-four principal tinnners, which ‘consisteth of six out of each quarter, returnable by the mayor

* This we collect from the form of the fencing of the Shedding-courts, and the charge to the great inquest. The proclamation is marked by that poetical spirit which, as we have before observed, pervades the ancient Scandinavian laws. ‘It is the King of Man ‘his pleasure and his officers, to keep court twice in the year, that ‘all men, both rich and poor, deaf and dumb, halt, lame and blind, ‘do come thither, upon horseback or on foot, to be drawn thither ‘upon car or cart, that they may know the King of Man his pleasure and his officers, and the law of his country.’—‘Call in four ‘honest men of every parish, to go upon the great inquest, and prevent all trespasses that were done in the half year.’ Then follow the articles of inquiry.

‘ of the four Stannary towns, whose acts bind the rest.’ Thus the court of each of the Stannary towns is a Leet-jury; and the jury of twenty-four, composed of the four Leets, is the Cornish Stannary Parliament. Some instruction may be derived, by considering the manner in which this Parliament is designated in different documents. In the charter of Henry VII., the King grants that no ordinances should be made by the king, or the prince, or his council, except twenty-four good and lawful men, six out of every Stannary, should be warned thereto by the precepts of the Mayors. In the Parliament of the 11 Charles II., they are said to be ‘ elected and chosen ’ by the Mayors. In the Parliament of the 2 James II., they are ‘ elected and ‘ returned by the Mayors.’ In both cases, we know that the tinnors of the shire were the electors; and we suspect that, in other instances which have come under notice in the course of this article, the officers, who appear to have been the electors, were merely the organs of the return. The Stannary Parliament of Devon is constituted on the same plan; but there the four Stannary quarters or Leets of Chagford, Ashburton, Plympton, and Tavistock, each return twenty-four jurats, who, in the act of the Stannary Parliament of the 25 Henry VIII., are stated to be ‘ elected, sworn and tried, with the assent and consent of all the tinnors of the aforesaid county.’

Before we find any distinct notice of other burghs, the Cinque Ports are mentioned by name, as being present in Parliament by their representatives. The ancient constitution of the Commonwealth formed by these towns, therefore, deserves attention. The Cinque Ports did not answer to the Eyre of the county; but their remedial jurisdiction was exercised in the court of Shepway, which, in the reign of Edward I. was summoned by the following writ.—‘ Rex Ballivis de ‘ Hastings salutem, Præcipimus vobis quod, omni occasione ‘ postposita, sitis apud Shepweyam, &c. coram, &c. et illuc ‘ venire faciatis viginti-quatuor de legalioribus et discretioribus ‘ Baronibus de Hastings et alios, sicut venire debent et ‘ solent.’—And another precept was always issued at the same time to the sheriff of Norfolk, to warn the men of Yarmouth, and the bailiff of Dunwich, to appear and state their grievances, which were never wanting: for the Cinque Ports and these towns were in a state of perpetual hostility. In the 23 Edward III., the style of the writs is altered. The returning officers are summoned to return ‘ de quolibet portu suo duodecim probos ‘ et legales homines, de juratis cujuslibet villæ portuum prædictorum, uno cum se ipsis.’—The mode of return is explained by the directions contained in a Custumal of the reign of Henry

IV. respecting the special court of Shepway, holden when the Ports received the new Lord Warden. 'The Mayor or Bailiff, by the common serjeant, is to warn all the jurats of the town, together with the whole commonalty, and to speak to them also to choose six good men, together with the Mayor and Bailiff, to appear before the Warden, on such a day, at the Court of Shepway.' This court obtained its name from Shepway, near Hythe, the place where it was usually held. The jurisdiction of the court of Shepway was equivalent to the Eyre. When the Cinque Ports are convened in a legislative assembly, the court is denominated the Brodall, or Guestling. At present, each town deputes the head officer, whether mayor or bailiff, three of the jurats, and three commoners or freemen. We have no means of ascertaining the ancient composition of the court of Brodall, or of dissecting the court of Shepway. That task can only be performed by consulting the records in Dover Castle. We will, however, venture to guess, that the two courts only differed in name, or at least that both were anciently composed of the same members, the Leets of the towns. It is hardly necessary to observe, that the jurats are now the municipal magistrates of the towns.

Pursuing the train of ideas suggested by these examples, it may appear at least possible that some relation originally subsisted between the common law juries of the English shires and burghs, and the High Court of Parliament itself. Nor are we inclined to reject this conjecture as devoid of probability, though it be at variance with the doctrines usually entertained concerning the feudal origin of Parliamentary representation. A popular assembly, composed of Juries of the Shires, in the same manner as the shire-moot in Eyre was composed of Juries of the Hundreds, is stated to have been convened immediately after the Conquest. William the Conqueror, in the fourth year of his reign, summoned all the counties of England to depute the noble and the wise, and the learned in the law—'*ut eorum jura et consuetudines ab ipsis audiret.*' Twelve men were therefore elected and chosen, by virtue of his precept, from every Shire; they swore that they would faithfully and truly make such returns; and the laws and customs so declared by them, were sanctioned by the King. Sir Matthew Hale calls this assembly 'as sufficient and effectual a Parliament as ever was held in England.' Mr Hallam, whose opinions are always entitled to the highest deference and respect, replies—'There is no appearance that these twelve deputies of each county were invested with any higher authority than that of declaring their ancient usages,'—'No stress can be laid at

‘ least on this insulated and anomalous assembly, the existence of which is only learned from an historian of a century later.’ Now, it appears that the true meaning of the transaction, as narrated by Hoveden and in the Chronicle of Litchfield, is sufficiently clear. On the settlement of the kingdom, the Commons of England were called upon to treat with their new Sovereign respecting the code by which they were to be governed: and the juries reported the laws to him, such as they were in existence before he acquired the kingdom;—in other words, they proposed the law—they gave the initiative to the bill which required his consent. William was desirous of extending the Danish law beyond its bounds, and of causing it to become the general law of the kingdom; but, in consequence of the petition of the representative Juries, he was induced to abandon his intent. Taking these facts together, and allowing for the circumstances of the times, and the colouring given by the language of the chroniclers, we cannot discover any essential difference between the powers of the Shire Juries and the share of the legislative authority which was enjoyed by the Commons, at a period when the Constitution assumed a more tangible shape and form. If the truth of a fact is to be doubted, because it is told by a writer who lived one hundred years subsequently to the event—for this objection has also been taken—history would shrink into a very narrow compass. Hoveden is confirmed by the Chronicle of Litchfield. And it is added in the latter, that the laws, as delivered by the Juries, were reduced into writing by Aldered, Archbishop of York, and Hugh, Bishop of London—a statement which seems to show that the writer had consulted some authentic record. Neither can the Jury of Twelve, so elected by the body of the Shire, and declaring or enacting the law, be considered as anomalous. It is plainly analogous to the Gothic Næmbd of Upland, or the Anglo-Saxon Leet-Jury. In the reign of King John, the Parliamentary inquests, or Juries of the shires, again appear. On the 19th of June, four days after the sealing of Magna Charta, he issued his writs, tested on the field of Runnemede, ordering that twelve knights should be elected and chosen in the county court of each shire, for the purpose of inquiring into the bad usages which were to be abolished according to the terms of the charter.

In the reign of Henry III., a delegation was substituted in the place of the Juries of the shires, which perhaps assisted in forming our present Parliamentary representation. Inquests of public grievances were taken before four knights of the Shire; and these knights, representing the Shire Juries, appeared with

their presentments before the King and his Council. In the 10th of Henry III., in consequence of disputes between the King's sheriffs and the shiresmen, upon certain articles contained in the charter of liberties, each sheriff received a writ, containing the following precept. 'Et in proximo comitatu tuo dicas militibus et probis hominibus ballive tue, quod quatuor de legalioribus et discretioribus militibus ex se ipsis elegerint, qui ad diem illum sint apud Lincoln, pro toto comitatu, ad ostendendam ibi querelam quam habent versus te, super articulis prædictis, et tu ipse ibidem sis, ad ostendendam rationem de demanda quam inde facias versus illos.' A writ, grounded on the provisions of the Parliament of Oxford, and which has hitherto been considered as very unintelligible, will explain the manner in which the complaints of the shires were transmitted into Parliament. 'Rex Vicecomiti Dorset. Salutem, cum nuper in Parlamento nostro Oxoniæ, communiter fuit ordinatum quod omnes excessus, transgressiones, et injuriæ factæ in nostro regno, inquirantur per quatuor milites singulorum comitatum, et cognita inde veritate facilius corrigantur. Qui quidem quatuor milites ad prædictam inquisitionem fideliter faciendam corporale præstent sacramentum in pleno comitatu, vel coram Vicecomitis et coronatoribus, si comitatus ille in proximo non teneatur. Mandavimus dilectis et fidelibus nostris Aluredo de Lincoln, Ivoni de Rochford, Johanni de Shada et Willielmo de Ragnes, de comitatu tuo, quod prestito prius hujusmodi Sacramento sicut prædictum est, per sacramentum proborum et legalium hominum de eodem comitatu, per quos rei veritas melius scire poterit, diligenter inquirant per dictum Comitatum de omnimodis excessibus, transgressionibus et injuriis in eodem comitatu a temporibus retroactis, per quascunque personas vel quibuscunque illatis, et hoc tam de Justiciariis et Vicecomitibus quam aliis Ballivis nostris, et cæteris quibuscunque personis. Ita quod inquisitionem inde factam, sub sigillis eorum per quos factam fuerit, deferant apud Westmonasterium in Octabis Sancti Michaelis in propriis personis juris, liberandum consilio nostro ibidem, et ideo tibi præcipimus in fide qua nobis teneris, quod accepto a prædictis Militibus corporale sacramento in forma prædicta, venire facias coram eis, illos quos tibi nominaverint, et tot et tales Milites et alios prædicti Comitatus per quos inquisitio prædicta melius fieri possit.' These knights received wages according to the usual course of the later Parliaments. It is not stated that they were elected by the Shire; but, by comparing this with the preceding one, we can scarcely hesitate to admit that such

was the case. * The representatives of the inquests, elected, as mentioned in the writ of the 10th of Henry III., may have been returned by the body of the Shire, both within and without franchise; or corresponding precepts were perhaps directed to bailiffs of Burghs and Manors in ancient demesne. Which of these conjectures ought to have most weight, we know not. On one occasion, we find the latter delegation alone. Matthew Paris states, that, in the 14th John—*‘ Misit rex ad omnes vicecomites regni Angliæ precipiens ut de singulis dominicorum suorum villis, quatuor legales homines cum præposito, apud Sanctum Albanum pridie nonas Augusti facerent convenire, ut per illos et alios ministros suos, de damnis singulorum Episcoporum et ablatis certitudinem inquireret. ’*

Impracticable as it may be to reduce the foregoing Parliamentary assemblies into a regular form, they evidently result from a coherent system. The grievances of the people, the hardships which could not be otherwise removed, were authenticated upon oath, and returned before the King and his judicial Council by the presentments of the Juries of the Shires, or by the representatives of these juries. The King could do no wrong. And the Juries of the Commons were empannelled to try the issues between his ministers and his subjects. Parliament proceeded upon the same principle as every other Court of Common Law. One circumstance completes the resemblance between Parliament and the Leet. The judicial and legislative powers of the Friborgs were united in the Leet-jury. The Commons themselves were sometimes condensed in a similar manner. In the Parliament of Oxford, *‘ that the commonalty shall elect twelve true men who shall come to Parliament, and on all other occasions when need shall be; and the King and his Council shall ordain to treat on the business of the King and the kingdom; and the commonalty will be bound by whatever the twelve shall do. ’* The articles add, that *‘ ceo serra fet pur esparnier le cust del comun. ’* But, as such transfers of power to similar bodies occur frequently in the reigns of John and of Henry III., the principle upon which

* In the 10th Henry II., a commission was issued to certain *‘ Barones errantes, ’* who took presentments of grievances throughout the kingdom. At the return of the inquisitors, a species of Parliamentary assembly was held, at which all those by whom the presentments were made, were ordered to appear before the King. (See Geronn, pp. 1414–11.) This proceeding, which is obscurely narrated, may have led to the election of Knights, for the purpose of transmitting the presentments.

Parliament proceeded must have been recognised as constitutional, though only resorted to on extraordinary emergencies.

After the reign of Henry III., the appearance of the juries of the shires in the Court of Parliament, or the returns made by them through the medium of the representative Knights, appear no longer. The remedial Court of Parliament had acquired a new function. It had also become a fiscal assembly. Some facts, however, can be recovered, which seem to indicate that the Shire-jury was considered as constituting the 'County' or County Court, by whom the knights of the shire were elected in behalf of the communitas. The election was made for Kent to Henry V. by twelve suitors—'qui ad eligend. milites et cives ad Parliamentum Domini Regis tenendum apud Westmonasterium—in crastino animarum proximo futuro prævuniti fuerunt'—and who chose the knights of the shire, and the burgesses for Canterbury and Rochester. Richard Cliderow, John Lawrence, John Deeping, and William Chapman, the first four of the electors therein named, are stated to be the coroners of the county. This is a circumstance of importance in elucidating the history of representation. We must recollect, that the English coroners are elected by the freeholders in the County Court; and that the ancient 'coroners' of Jersey are ex officio members of the States.* The indenture for Devonshire, 27th Henry VI., is made between the sheriff and twenty-nine suitors—sixteen of whom elect the knights, citizens and burgesses for the county, and for Exeter, Dartmouth, Totness, Tavistock, Barnstaple, Plymouth, and Plympton. On other occasions, a select body of twelve, representing the Leet, if not the Leet itself, made the election for the Burgh. The parties to the return for Cambridge (8th Henry IV.) are twelve therein named, who elect the knights for the shire and the burgesses for the town. Sometimes twelve burgesses are parties to the indenture with the sheriff, and elect the burgesses for the town, as in the elections for Bedford (5th Henry V.) and for Gloucester (28th Henry V.); and, on other occasions, four burgesses from each burgh in the county appeared in the full county court, the mayor being frequently one of the four, in the same manner as the four men and the reeve appeared at the Hundred Leet, and severally elected their several burgesses. When the elections for Knights, Citizens and Burgesses, were made by the same set of suitors, it must be presumed that the hundreds, together with the franchises, resolved themselves into one body, by whom the electors were named. Burghs whose returns are inter-

* It must also be observed, that the coroner was one of the chief conservators of the peace.

mitted, or who appear to lose the right of sending members to Parliament, may thus have allowed their elective burden to merge in the representation of the shire; whilst other Burghs submitted to the individual performance of the duty. How the assent of the *communitas*, which is always expressed, was given to this nomination, does not appear. The premises may warrant the supposition, that the Leet-Juries, which on all occasions acted as the judicial representatives of the suitors of the Leets, retained the same functions on these occasions. A direct delegation from the Leet to Parliament still exists in some boroughs by prescription. Many Corporate boroughs exercise the franchise by the bodies into which the Leet-Juries have been converted. The Lord Mayor of London, representing the common law Portreeve, was anciently considered as a member of Parliament, by virtue of his office, and without any special election.

It may be objected, that no proofs have yet been found of the existence of the bodies of twelve in the period intervening between the reign of Henry III. and the precedents which have been quoted. Perhaps not; but if the Jury was itself and alone the accustomed county court, as held for these purposes before the Sheriff, no special notice of it would necessarily appear. The sheriffs of Kent and Devonshire and Cambridge, were each directed to cause the election to be made *in pleno comitatu*; and they obeyed the direction, by causing the election to be made by a select body. But if these Sheriffs had made the short return, merely stating the election of the knights, with the names of the mancaptors, then the proceeding by which they were enabled to make the return in Parliament would have remained unknown. In legal phraseology, the mention of *the court* includes all its known parts and members.

Some great change had certainly taken place in the practice of popular elections about the reign of Henry VI.; and inconveniences had arisen which produced the various regulating statutes by which the system was altered and equalized. Possibly this alteration may have been hastened by the statute 7th Henry IV. c. 15. But it is very remarkable, that many elections by a limited number of suitors took place after it had been enacted, that ‘all they that be there present, as well suitors for the same cause as others, shall attend to the election of the knights for the Parliament; and then, in the full county, they shall proceed to the election freely and indifferently.’ It is therefore evident, that the election by a select body of Eight, or Twelve, or Sixteen, was considered as an election in the full county, and as the legal mode of effecting the return of the writ, according

to the true intent and meaning of the statute.* Our readers may be inclined to conjecture, that the Shire Juries became obsolete in proportion as the Leet lost its penal jurisdiction, and the Eyre its authority: and the fact certainly is, that both these courts were rendered in great measure useless by the sessions of the keepers of the peace.

We believe that the facts which we have now adduced may be considered as affording reasons for assuming, that the Knights of the shire, instead of representing the military tenants of the Crown, were in truth returned to Parliament in the place of the Courts-leet of the shire; and that the remedial Court of Parliament was intended to afford that justice to the Kingdom which in the remedial Court of the Shire was dispensed to the county. Knighthood ought to be considered as designating a qualification of property, not of tenure. Thus it was required that the coroner should be a knight, obviously for the purpose of providing a responsible officer. The Burgesses equally attended in Parliament on behalf of the Leets of the franchises, which, answering by twelve to the shire-moot, were distinct jurisdictions, and severed from the body of the county. Great difficulties, as we readily admit, may be found in supporting their positions. All the allegations upon which they rest are not susceptible of strict historical proof: and objections may be stated which cannot be completely removed. But our conjectures are almost as plausible as any other of the many theories which have hitherto been promulgated to account for the representation of the Commons. None of these theories have given satisfaction to the theorists themselves; and certainly there is no theory so improbable, so irreconcilable to general history, or to the peculiar spirit of our Constitution, as the opinions which are held by those who deny the substantial antiquity of the House of Commons. No paradox is so startling as the assumption, that the Knights and Burgesses who stole into the Great Council between the close of the reign of John and the beginning of the reign of Edward, should convert themselves at once into the Third Estate of the realm, and stand before the King and his Peers in possession of powers and privileges, which the original branches of the Legislature could neither dispute nor withstand. If the States

* We are not prepared to maintain, that the mode of election was uniform in all parts of England. The returns for York, of the 13th Henry IV. and the 2d Henry V. (Prynne, B. P. R. 152-3.), would disprove such an assertion. But they prove, that a select body of suitors might constitute a County Court: so they are equally to the purpose.

of Jersey were created by King John, he would scarcely have granted an elective franchise to the people, unless a system of representation had been already familiar to him. Admit that his Constitutions merely confirmed existing rights, and it may be reasonably maintained, that the institutions which generated the States of the Norman Isles were not unknown to England. If the records of Jersey could be consulted, we should perhaps be enabled to point out the capacity in which the Constables, the standing grand inquest of the island, found admission into the States. But, at all events, in the Tynwald of Man, as well as in the Parliaments of the Stannaries, we can actually trace the conversion of the Leets into general, remedial, and legislative assemblies. Further proofs may perhaps be recovered hereafter. It must not be forgotten, that the researches of all previous writers have been directed solely in furtherance of the opinions which have been held respecting the feudal origin of Parliament. No one has considered it as a common law court. Consequently, the facts which illustrate this view of the subject have only been incidentally noticed, or collected with other views.

A regular succession of the inquest juries of the shires, returned before the King in his remedial Council, from the era of the Conquest to the era of Magna Charta, cannot be deduced. They may have been intermitted. Their powers may have been abridged or repressed; but the whole tenor of the great charters warrants us in denying that any innovation was thereby intentionally introduced into the Constitution. The Barons were not revolutionists. They were not seeking to diminish the lawful prerogatives of the Crown. They sought the restitution of the ancient Saxon rights and liberties, which they believed to be their inheritance. They assembled in the Saxon field of council. The clause, so familiar to every Englishman, which secures lawful trial to every freeman, was not a grant or boon,—it was one of those maxims which had been transmitted from father to son. We find it, in substance, in the Saxon Customal of Henry I. ‘*Unusquisque per pares suos judicandus est.—Nil a nullo exigi vel capi debet, nisi de jure et ratione, per legem terræ et justitiam, et per judicium curiæ.*’ The liberties warranted by the charter were not innovations. Its clauses were declaratory and remedial. Its provisions were solely intended to prevent a recurrence of the evils which were now removed.

A remark may be made by the modern lawyer, that the knights chosen under the writs of *Runnemede* and of Henry III. were merely inquest juries, by whom the defaults of sheriffs and others were to be returned to the King, or to his Court, or to

his Justices. But the development of the Leet establishes, that such juries were the organs in which the whole political life of the commonwealth was seated. Our ancestors had no other method of exercising jurisdiction—of ascertaining facts—of administering justice—but by calling a jury into action. Even the taxes granted by the Commons were assessed upon the people by the verdict of a jury. Inquiries into the origin of Parliament have been too much perplexed by a reference to feudal doctrines, which often lead the historian astray. Parliament is not a feudal institution. Its tinge of feudality is extraneous and superinduced. The law of Parliament is a branch of the common law, of the unwritten law, of the law which has subsisted, and subsists by immemorial usage and tradition, from time whereof the memory of man runneth not to the contrary. In discussing our constitutional history, it seems to have been forgotten that Parliament is not an isolated Court. All the Courts of the Common law are respectively analogous to each other. No one of its institutions is estranged from the rest. They are all harmonious and consistent. Neither has the original character of the Great Council been always duly considered by historians. Parliament, according to the meaning of the ancient English Constitution, was not convened solely for the purpose of making speeches, or making laws, or granting money. It was a high Court of justice in which the King and his council were to be informed of the wrongs of the kingdom, and by whose authority such wrongs were to be redressed. It was to relieve and protect the subject, in all those cases where the mesne tribunals had made default, or were unable to afford a competent remedy. When the Parliament of the 4th Ed. III. was summoned, proclamations were made in the name of the King in every county, that ‘all who would complain of all oppressions, hardships, or other grievances which they had suffered against justice and the usages of his kingdom, were to come to Westminster, to his Parliament there next to be holden, and to make their complaints to him, or to those whom he would assign in that behalf; and that he would grant to them such fit and speedy remedy as, in all reasonable manner, should give them content.’* These were the purposes for which the Shire was convened; and as that court was intended to be auxiliary to the Leets, and to aid the people, if justice could not be obtained in the borough, or the Hundred Leet; so the Parliament was constituted as the general remedial court of the kingdom.

The legislative power of the Court of Parliament was ex-

* Prynne's Brief Remarks on the 4th Institute, p. 15.

exercised unconsciously, because it resulted from the remedial power. Complaints arose of violations of the law, of neglect of the law. The Monarch promised to forbid the abuse; and farther remedies were provided in defence of the existing law. It was strengthened and declared: Its principles of justice and equity received a new and more solemn sanction. Remedial and declaratory statutes thus succeeded to older remedial and declaratory statutes. Yet Parliament, echoing the sentiments, if not the words, of the Barons of Merton, scarcely ever intended to introduce a new law, to enact a new statute. ‘*Nolumus leges Angliæ mutari, quæ usitatæ sunt, et approbatæ.*’ At the same time, the old Parliaments never hesitated to renovate the law according to its real and original intent; but it was modified and reformed by gradations, which are almost imperceptible when considered singly. However, this system of amendment operated without intermission; and the sum-total of these small alterations produced great alteration. Strictly speaking, therefore, no legislative power may have been originally claimed by the representatives of the Anglo-Saxon Leets convened in Parliament, though they exercised that right of demanding justice and protection, which, in effect, was equivalent to legislation.

Much stress has been laid upon negative evidence, by the opponents of ancient representation. They assert, and truly, that no writs of summons or records of meeting, can be produced. Allowance must be made for the ravages of time. The writ may have been lost. It may never have been enrolled—nay, it may never have been issued. The Anglo-Saxon Leets and Shires met without any special mandate from the King. If it was a part of the duty of the Leets to return their inquests of grievances before the King sitting in his great council, that return might also be made at the expiry of the accustomed legal period, without his special writ or command. The remedial Court of Parliament would be held in its usual course, like all other common law courts: and a chronicler would not have any occasion to notice the assembling of a tribunal which came together merely in discharge of its ordinary duties.

Parliament, according to the hypothesis which we suggest for the consideration of our readers, has resulted from the concentration of the remedial and judicial authorities of the kingdom. The Lower House was not a representation of tenures, but of the tribunals in which the authority of the commonwealth was exercised. The Reeves, the magistrates of the upland towns, denounced the wrongs committed in their friborgs into the Leet or magistracy of the Hundred. Ascending, in their turn, the Hundreds, by the inquest Juries of the Shires, or the delegates

of these Juries, made their presentments before the King and his Council. The Leets of the boroughs either concurred in the inquests and delegations of the shires, or they answered before the King and his Council in severalty, as they had answered in the Shire-moot. Magistrates in their own sokes, they transmitted the complaints of the people, of whom they were both the governors and the representatives, unto the Great Council of the kingdom.

Of this Council, as constituted anterior to the Conquest, we know little more than the name. But the unity of the members of the Constitution is such, that the composition of the greater Burghmotes cannot fail to reflect the image of the paramount jurisdiction. A most important branch of the *Engla red gifan* probably consisted of Aldermen possessing individual powers of jurisdiction—some appointed by the King, others by the courts of the Commons; some holding office for life, or for a specified term; others invested with equal authority by right of property and inheritance. At a period of our history, which, though less remote, is equally obscure, there is reason to suppose that the Barons sat in Parliament as representatives of the jurisdictions appendant to their lands.

Whatever weight may be ascribed to the proofs upon which our arguments must rest, the theory involved in our inferences is consistent with the principles of the Constitution. In the Grand Jury of the present age, much as it has varied from its pristine form, uniting to the magistrates, the representatives of the King's Thanes, we still recognise the assembly of the States of the Shire; whilst the House of Commons retains the active functions of the Grand Inquest of the community.

Our ancient Constitution is more than an object of curiosity. We have long boasted, that 'the liberties of which every Englishman is inherited,' are derived from our ancestors. And, as the muniments by which we deduce our title to that inheritance, we must sedulously study the dusty record and the mildewed charter. From them alone can we collect the precedents of the spirit of the Constitution. The ancient polity of England allowed the powers of Government to bear as lightly on the people as was consistent with the good order of the State. It was, in truth, a home government,—a government in which each individual took as great a share as he was *worth* in the community. The internal balance of power was fairly poised. Justice, according to our familiar phrase, was brought home to every man's door. Such was the Constitution of Old England; but we have already stated, that we have commenced these investigations with a very sedate, sober, and archaic tone of mind: And as we

really feel that we have no concern to side with any of the parties which have battled in this country since the death of Simon of Montfort, we shall not enter into any practical exposition of the maxims of former days, beyond a few general observations, which must have been anticipated by such of our readers as have continued awake unto this our fiftieth page.

An inspection of the Rolls of Parliament during the reigns of our earlier monarchs, in which all ranks of society are seen crowding into the Painted Chamber, for the purpose of delivering their complaints into the hands of the ‘Receivours des ‘petitions d’Engleterre, Gales, Irland et Ecosse, de Gascoigne, ‘et des autres terres et pais par de la mer et des isles,’—will induce an opinion, that the right of applying to the Legislature for the redress of all real or imaginary grievances, is not a modern innovation; the greater innovation is the discouragement of this right, even though it may not be always exercised with judgment or discretion. Parliament, when exerting its remedial jurisdiction, is in nowise disturbing the established distribution of judicial authority; but its inquisitorial functions are ancillary to the ordinary Courts of Justice, which are embraced within it as the primary sphere. A counteravailing force, repressing the undue extension of the remedial attributes of Parliament, will be found in the nature of our Parliamentary representation, which is and ought to be essentially aristocratic. It is composed of the natural depositaries of the strength and power of the people. In other countries, whose ancient constitutions were nearly analogous to our own, the people lost their rights, because all the jurisdictions possessed by the mesne magistracy, whether feudal or municipal, gradually merged in the Crown. The Sovereign then delegated the authority which he had so acquired, to a dependant magistracy, created by his will, and whose importance was derived only from their stations. No jealousy was excited amongst the multitude by this transition. Slight inconveniences, when present, are more irksome than the contemplation of remote, though greater, dangers. Baronial sway vexed and irritated the wealthy vassal. The simple Burgher looked spitefully at the haughty Echevin. They forgot that the village received protection from the frowning dungeon-tower; and that the gates where they reluctantly paid the toll and the tenth penny to the crabbed city sergeant, could be shut against forced loans and benevolences. Hence the people, unapprehensive of futurity, rejoiced when the Monarch struck down the battlements of the castle, and seized the keys and maces of the corporation. They assisted in sweeping

away every barrier which the older institutions had interposed between them and the Throne.

Such was the fate of the Continental nations. But this evil destiny fell not upon England. Providence produces the greatest effects, in the moral as well as in the physical world, by the simplest means. In the first year of the reign of King Edward III., the Commons prayed, that good men and true might be assigned in every county to keep the peace, and that they might have power to chastise offenders according to law and reason. Edward assented; the petition became the law; and to this statute we probably owe the preservation of our limited monarchy. The country required a renovation of its internal frame. The seigniorial franchises of the Barons had become insufficient for the preservation of the public tranquillity. Adapted to a simple race of husbandmen, the frankpledge was broken and dislocated by the expansion of the community. And the system of the Anglo-Saxon municipal government, founded upon the frankpledge, was no longer manageable or effective. At this juncture, a confederacy of the powerful landholders against the body of the English people, might have given them an overweening sway. They might have asserted, that an extension of their feudal rights was needed for the purpose of repressing the disorders of the kingdom: and the legislature might have granted to them a more summary and uncontrolled jurisdiction. Every manorial domain would then have been converted into an honour palatine; and England would have been parcelled out into petty principalities like Germany. Had the people, on the contrary, cooperated either actively or passively with the Crown in disfranchising the aristocracy, on the pretence that their territorial rights and privileges were incompatible with the quiet and well-being of the State; if they had complained, that the rich and wellborn were already formidable to the Throne and oppressive to the cottage,—then this country, like France, would have become a levelled field of despotism. We avoided these extremes by the creation of Justices of the Peace. The lawful authority which was becoming mischievous and debilitated in the hands of its ancient owners, received a new apportionment amongst the order to which it belonged. The class received a compensation for the authority which was lost by the individual.

Territorial jurisprudence was not abolished by a sweeping law. No sudden alteration shook and jarred the State. Infangthief and outfangthief, bloodwite and leirwite, were still retained in the charter, as the appurtenances of the manor. But these harsh-sounding Saxon terms now required a glossary. The Lord forgot to claim his antiquated powers. He

allowed them to fall into desuetude, whilst, with his brethren of the quorum, he sat on the bench, where he resumed an equivalent for his hereditary rights, by virtue of the commission which had issued under the King's broad seal. The Crown was not jealous of the share of power which it appeared to bestow. Equal content was given to the people, who required the immediate protection of the magistracy. Villainage was wearing out. The yeoman and the franklin knew that the knight and the squire were commoners like themselves: and they submitted, without murmuring, to a jurisdiction which seemed as an emanation from the supreme executive authority; although they might now have been ill inclined to allow such preeminence to their equal in the State, if he had claimed it as an inherent sovereignty. Feudal authority, matured into real political power, thus became again reunited to property; and the energetic and benign influence exercised by the English Gentleman, was settled and confirmed.

The State derives all its stability, power, and energy, from nobility, industry, and talent. In the words of King Canute, these are the Pillars of the Throne; and if any one of them is broken asunder, the Throne will fall. But they must be coordinate, and they must not rise against each other. Aristocracy, founded only upon birth, is hateful to the other ranks of society. An aristocracy composed only of the rich, debases its members no less than the people at large. France, according to the old regime, exhibited the effects produced by a ruling caste: and America may one day deplore the polity which leaves no substantial ascendancy, but to the purse. An Utopian community might create an aristocracy, for which the sole qualification should be talent, or the reputation of talent. As far as the multitude are concerned, the coin and the counterfeit are just the same. Revolutionary France, and the ancient republics, exhibit some approximation to such an aristocracy; and their examples prove, that the ascendancy of mere mind, unchecked by the habits of action acquired by familiar honour and respectability, would become more intolerant, pitiless, and tyrannical, than any of the forms of misrule beneath which the earth has groaned. In England, the heterogeneous elements of our constitution have forced the three kinds of aristocracy into combination with each other. From their union results another species, the aristocracy which is founded upon character, a term so completely our own, as to be untranslatable into any other language. It is to the aristocracy of character that the Parliament owes its supremacy over the Crown and the Kingdom. If deprived of it, the Lords and Commons would become theatrical pageants. They

might retain the Woolsack and the Mace, the Black Rod and the Chair; but they could neither command respect nor enforce obedience.

We live at the beginning of one of the great cycles of the world. The empire of feudality has fallen for ever; and the states which composed it must assume a new organization. At a very distant period, their polity will be nearly uniform in its structure; and the principles which will rule them, will cause their governments to approximate to the form of the government of England. It is in vain that Emperors and Kings assemble in secret conclave to avert this revolution. The doom is sealed, the decree has gone forth, the judgment is passed. They must be content to reign according to the Constitution. Their prerogatives must be defined; the rights and privileges of their subjects must be secured. If this euthanasia of feudality is to be retarded, it will be so, not by the stubborn opposition of Sovereigns and Cabinets, but by the ignorance and political fanaticism of the people. The privileges of the commonwealth can never be protected, if we violate the rights belonging to any of its members. If the priesthood are disposed to pay too ready an obedience to the ruling powers, we shall not add to their independence by despoiling them of their lands, and converting them into the salaried servants of the State, or into eleemosynary dependants upon the bounty of their hearers. An established church is an essential portion of a constitutional Monarchy. Its endowment is the property of the people. When they pillage the altar, they rob themselves. We should open as many paths as possible between the lower and upper orders of society. Every advocate of popular liberty ought to cherish an ecclesiastical constitution, by which the son of the peasant may acquire unchallenged rank and independence. The cardinal's cap and the episcopal mitre fall often on the humblest brow. Men of transcendent talents may force their way through tracks of their own. The difficulty consists in providing for the regular progress of men whose talents entitle them to distinction, though not to command. When the church cannot be acceptable to the individuals belonging to this class of society, those to whom it would have afforded a competent provision are without resource, unless they become soldiers or lawyers, who devour the flock which the pastor tends, or they increase the locust swarms of *employés* and *gens du bureau*.

A representative government cannot exist in a monarchy without inequality of rank. Some classes must have a greater share of political power than the rest, in order that they may be enabled to support the popular representatives by their influence.

Deputies, however freely elected, who walk into the chamber attended only by their own insignificance, can receive but a slender aid from the will and voices of their electors. Unless the popular members are powerful in the nation, they can never constitute a party. To preserve their influence, they may form knots, clubs, juntos; but they acquire no stability by these means. They must be great men at home, as well as in the chamber; if they have no authority elsewhere, they will not awe the ministers by ranting in the tribune. France, and we fear Spain and Portugal, will afford too clear a comment upon these propositions.

Will it be said that we are wedded to the imperfections and infirmities of our form of government? No. The most fervent attachment to our laws and institutions is perfectly compatible with the most painful sense of their defects. Our constitutional history consists of an unbroken series of complaints and concessions. Our ancestors were always yearning after amelioration and improvement. Grievances may have been frequently exaggerated,—*grace*, too long withheld; but no period can be discovered in times past, in which King, Lords and Commons, united in assuming, that the laws and constitution had acquired such a degree of abstract excellence as to forbid all reform. A free government should not crouch before the people; but if an unyielding spirit of opposition should renounce all communion with public opinion, then the hour of distress and danger will have arrived. Wo betide us if we refuse to listen to the wisdom of our ancestors. They were homely and practical men; and, obeying the simple dictates of common sense, they never shrunk from the duty of amendment. The best institutions turn into curses, if allowed to degenerate from their pristine nature. The laws and customs which afforded security to the father, become noxious to the son. The level of the ocean changes; shoals and rocks are found where the vessel of the State rode at anchor; and, unless a new harbour is deepened for her reception, the Pilots will quail and tremble at the howling of the winds, and find no refuge from the storm.

Quamvis Pontica pinus,
Sylvæ filia nobilis,
Jactes et genus, et nomen inutile;
Nil pictis, timidus navita puppibus,
Fidit. Tu, nisi ventis
Debes ludibrium, cave!

ART. II. *Supplément aux Melanges d'Histoire, de Litterature, &c. Tirés d'un Portefeuille.* Paris, 1820.

IN our Sixtieth Number, we gave an account of the curious collection of Tracts which the late Mr Quintin Crawford had printed, but withheld from the public. He, some time before his death, added the Supplement which is now before us, and which, though also unpublished, we have understood he did not object to have candidly discussed. There was in truth no reason why he should dread the severity of criticism in any part of the work. The contents were all extremely interesting; and the portion which proceeded from his own pen, displayed both sound judgment and a correct taste.

The first piece in this Supplement is almost entirely by M. de Meilhan, and contains a number of judicious reflections upon the character and history of Louis XV., with several anecdotes more or less known already. The moral of the whole, or the practical application is, that, of all kinds of affection, by far the most worthless and unreasonable was the enthusiasm of the French for their Princes. Early in his reign, Louis XV. was taken dangerously ill at Metz; and the whole people of France were thrown into an alarm which hardly any public event had ever before excited. When a preacher, in the course of the sermon delivered upon his recovery, termed him in his presence, according to the adulatory style of the pulpit in those days, *Le bien-aimé*, the expression was, by universal consent, deemed so peculiarly fitted to indicate the place he held in the hearts of all men, that it flew instantaneously over the whole nation, and became at once and every where united to his name. Had he died then, says our author, he would have been regarded as the Titus of France in after times; and this, he very justly adds, without any one reason in the world, 'except that he was handsome, young, and, dying in the flower of his age, would have got credit for all the good which he might have done.' Unfortunately for his reputation, he lived to an old age, and is now only remembered as a pattern of indolence, voluptuousness and insignificance, rare even among absolute monarchs. There is much truth in the explanation here given of the great name often acquired by persons in distinguished stations, who are cut off suddenly in their youth. *Tu Marcellus eris!* The sentiment of pity inclines the world to a favourable judgment; and while time has not been given for committing many faults or displaying many deficiencies, the object of compassion is decked in the attributes which an indulgent fancy takes pleasure to invent. But the *Well-beloved* reigned

somewhat too long to give the full benefit of this excuse to his votaries. He seems indeed to have felt this; and he was probably rather struck with shame than with the sensibility ascribed to him by M. de Meilhan, when he exclaimed, in the midst of the enthusiasm every where displayed by his subjects, '*Qu'ai-je donc fait pour être tant aimé ?*' We greatly doubt if these paroxysms of unmeaning and mischievous feeling will ever again be exhibited among the French; and we trust, for the sake both of prince and people, they never may—their inevitable effect being to spoil the one, and degrade the other. Perhaps the reader may be of opinion, that the sentiments of divine right, in which kings are so prone to indulge, proceed not unnaturally from such excesses of devotion in their subjects. The following letter is full of them; it is one of the very few acts of vigour ever performed by Louis XV.; and, being addressed to his minister at the time of the disputes with the Parliaments in 1771, induces our author to suppose, that if the Revolution, which many think was then so near, had broken out, he would have had firmness enough to resist its further progress. It is written entirely in the King's own hand, and addressed to the Duc de Richelieu.

'Poussé à bout comme je le suis, je ne puis plus différer de faire sentir à mon parlement que je suis le maître absolu—que ma puissance vient de Dieu, et que je n'en dois compte qu'à lui le jour où il me retirera de ce monde. Pour lors ils auront sous un autre maître, non moins le maître, mais peut-être plus vif que moi. Je suis roi et maître, ou c'est le parlement! Personne ne veut céder, et cependant il est nécessaire que quelqu'un plie. Je ne veux point détruire le parlement, mais je le veux réduire dans les justes bornes pour lesquels il a été institué; ainsi il faut qu'il cède, ou moi. Moi j'y mettrai toute la force que Dieu a mise dans mes mains, et je repandrai mon sang avec grand plaisir. S'il me demande pardon, s'il obéit à ce que je lui commande, avec joie je lui rendrai le pouvoir que je lui avois confié. Mais après toutes les incartades que j'ai vues, je ne souffrirai jamais qu'il puisse me mettre dans le même embarras.'

'Je n'aime pas plus l'autorité des prêtres, en tant qu'ils veulent sortir des bornes mystiques; mais je veux qu'on rende à Dieu ce qui est à Dieu, et à Cesar ce qui est à Cesar. Or Cesar ne tient que de Dieu ce qui est à Cesar, et il ne le lâchera à personne sur la terre Française.'

'Vous pouvez communiquer ceci à qui vous voudrez, n'étant pas fait pour vous seule; ainsi vous en ferez l'usage que vous jugerez à propos. Je ne le signe pas non plus; vous connoissez assez mon écriture pour être sur qu'elle est de moi; je le ferois même avec grand plaisir, s'il le falloit, d'une autre couleur!'

We surrender this singular letter to the unbounded admiration of the Ultra-Royalists on both sides of the Channel. They will

term it, no doubt, very firm and vigorous, and extol the writer for twice expressing the delight with which he was disposed to shed his blood for his fancied rights; forgetting that his existence as a king was only for his people's benefit, and that *his* blood could not fall in drops unless *their's* flowed in torrents. It is singular that this piece should be the composition of one who, of all the kings that ever reigned, lived the longest time merely for himself; without any great and glaring vices certainly, and with hardly any attempts to extend his power; but in a state of quiet, animal indulgence, which rendered his existence almost indifferent to his subjects. No case could therefore have occurred in which the rights of the crown were more peculiarly the private and personal interest of the sovereign; and we will venture to say, that no sovereign who held them avowedly, or substantially for the benefit of the State, ever claimed them so absolutely, or was more zealously devoted to uphold them.

The next pieces which excite interest in this collection relate to Louis XVI. and his unfortunate Queen; containing a number of curious anecdotes, many of them within Mr Crawford's personal knowledge, of those two ill-fated individuals, especially during the latter years of their lives. There has, naturally enough, been so much exaggerated feeling on both sides respecting them, and facts have been in consequence so distorted, that it is quite refreshing to read any thing which proceeds from a quarter of undeniable authority. Mr C., though greatly disposed to take part with the sufferers, (and who indeed can avoid such a partiality?) yet writes with such exemplary calmness, that we cannot, generally speaking, avoid giving credit to his narrative.

Louis XVI. certainly owed the love which he obtained from those who approached him to his worth, and not to the graces that ordinarily captivate the frequenters of a court. His character, we are told, was reserved, and his manners far from prepossessing. ‘Des formes dénuées de grace et même un peu brusques excluoiént chez lui cette prévenance et cette aménité dont les souverains peuvent quelquefois tirer un si grand parti; d’ailleurs son maintien, ses manières, et un regard vacillant, produit par une vue courte, composaient un ensemble peu imposant; mais toutes ses actions et toutes ses paroles annonçoient des idées justes, et surtout l’homme de bien.’ His great defect was a want of firmness, arising from want of confidence in himself; and this again may be supposed to have originated in the evil education which at first prevented him from trying his own powers in manly pursuits, and in the frivolous occupations in which all the periods of his life seem to have been passed. When we apply such a term to them, it is

only with reference to the exigencies of his station; for, in a private person, such pursuits would have been innocent and even laudable. His chief pleasure seems to have been the chase, and his favourite occupation some mechanical work, as watch-making, in which he was so knowing, that M. Janvier owed to him the idea of his time-piece. He loved to converse with artists, and to make them explain the principles of their art; and it was an amiable trait in his character, and in harmony with all the rest, that, considering their time to be their fortune, he made a point of never keeping any one waiting whom he had sent for; but, if any thing prevented him from seeing them at the appointed hour, he took care to give them early notice of the change. He was well informed upon some higher branches of knowledge; geography, in particular, was his favourite study. He drew up, himself, the instructions for the unfortunate La Peyrouse, who passed two hours with him on being named to command the expedition, and expressed to Mr Crawford at dinner next day, his astonishment to find the King so intimately acquainted with every thing regarding maritime discovery, and naval science in general.

Though naturally of an economical disposition; which he carried even to parsimony, he employed part of his savings in charity, and was peculiarly anxious to keep his acts of benevolence concealed. The Queen having one day discovered some such good work, he was somewhat angry; and then said good humouredly, and, we may add, wittily, 'Il est bien singulier que je ne puisse aller en bonne fortune sans qu'on le sache.' Our author positively denies that any of the financial distress in which the Revolution began, was owing to the extravagance of his household, or the Queen's. He was never prodigal, and very seldom generous; and could not, without great difficulty, be prevailed upon to allow of any extraordinary disbursements. He paid, indeed, the debts of his brothers, particularly the Count d'Artois, which required considerable sums of money; but his own civil list cost only between a million and a million and a quarter Sterling; and appeared to the National Assembly so far from extravagant, that they fixed it at a sum founded upon the same estimates. The extravagance of his predecessor, and, still more, the expenses of the war 1778, were the real causes of the deficit.

The following particulars respecting the celebrated escape from the Temple are interesting, and place the amiable character of the King in its proper light.

'Le plan ayant été adopté, le Roi en confia l'exécution, depuis la frontière de l'ancienne province des trois évêchés, au Marquis de Bouillé, commandant de l'armée de l'Est, qui accepta cette danger-

euse commission, purement par dévouement pour son souverain, et au risque de se perdre. Le soin de tirer, de Paris, la famille royale, fût confié à M. le Cte. de Ferzen, Colonel du régiment de Royal-Suedois. On avoit fait faire une solide berline dans laquelle devoient entrer leurs Majestés, M. le Dauphin, Madame Royale, Mad. Elizabeth, sœur du Roi, et un officier de confiance. Le choix de cet officier devoit tomber sur le Baron de Viornouil, ou sur le Marquis d'Agout, Major des Gardes Françaises, tous les deux officiers généraux pleins de zèle, et d'un caractère décidé. La Comtesse de Tourzel, qui avoit succédé à Mad. de Polignac, comme gouvernante des enfans, demanda avec instance à n'en être pas séparée. Leurs Majestés touchées de ses larmes, consentirent à la prendre avec elles, ce qui ne laissa plus de place dans la voiture pour l'officier-général, qui, s'il s'y fût trouvé, auroit probablement surmonté les embarras qu'on éprouva. On obtint par M. de Simolin, ministre plenipotentiaire de Russie en France, un passeport sous le nom de la Baronne de Korff, alors à Paris avec sa famille. On choisit trois gardes-du-corps, qui furent déguisés en domestiques; deux devoient se placer sur le siege de la voiture, tandis que l'autre servoit de courier. Ils ne surent que le soir du départ l'objet auquel on les destinoit. Le premier fût envoyé vers dix heures avec la voiture de voyage, attelée de quatre chevaux, pour attendre leurs Majestés hors de la barrière de St Martin. Le second resta dans le cabinet du Roi, et le troisième eut ordre de se tenir dans l'appartement de la Reine, et de l'accompagner à sa sortie du chateau.

La famille Royale soupa et se retira à l'ordinaire. A dix heures et demi, M. de Ferzen, déguisé en cocher, amenoit une voiture qui ressembloit à un carrosse de louage, dans la cour des Princes. Mad. de Tourzel sortit bientôt après avec le Dauphin et Madame Royale. M. de Ferzen, qui étoit descendu du siege pour les aider à entrer dans la voiture m'a dit que Madame Royale versoit un torrent de larmes, comme si elle eût senti les malheurs qui les menaçoient. Lorsqu'ils furent montés, M. de Ferzen les conduisit au petit carroussel, et s'arreta devant l'hotel précédemment occupé par la Duchesse de la Valliere; cette maison fût choisie de préférence, parceque n'ayant qu'une très petite cour, on voyoit ordinairement des carrosses arrêtés devant la porte. Madame Elizabeth arriva la première, et fût suivie peu après du Roi; il avoit une redingotte, une perruque, et un chapeau rond. Après avoir attendu quelque tems la Reine, il s'impatient, craignant qu'il ne lui fût arrivé quelque accident; il vouloit retourner pour la chercher, et on eut beaucoup de la peine à le retenir. Dans cet intervalle, M. de la Fayette passa, suivi de deux cavaliers. Le Roi qui le reconnût, s'exprima sur son compte de manière à prouver que sa conduite et ses procédés l'avoient blessé profondément.* La Reine arriva enfin. En ouvrant la porte de son

* Such expressions, on the King's part, might be pardoned in his circumstances; but they can in no degree affect the esteem in which all good men must ever hold the truly consistent and venerable friend of liberty to whom the passage refers.

appartement, elle aperçut une sentinelle qu'elle ne s'attendoit pas à trouver. Elle s'arrêta un instant pour l'observer. La sentinelle se promenoit, la reine fit signe au garde-du-corps de la suivre sans bruit, et profitant du moment où la sentinelle tournoit le dos, ils descendirent l'escalier sans être aperçus. Toute la famille royale étant montée dans le carrosse, M. de Ferzen la mena jusqu'à la berline de voyage, et à quelque distance de celle-ci, la première voiture fût abandonnée près de la route. Les chevaux de poste étoient commandés à Bondi. On sait le reste. A peu près à la même heure, Monsieur et Madame * partirent du palais du Luxembourg, et arrivèrent sans aucun accident dans les Pays-Bas, que M. de Ferzen gagna lui-même. Si leurs Majestés eussent pris la même route, il est probable qu'elles n'eussent rencontrés aucun obstacle. Le plan de leur fuite fût aussi mal conçu que malheureusement exécuté.

Mr Crawford had frequent access to this unfortunate family, both before and after their attempt to escape; he appears, indeed, to have been confidentially employed and consulted by them; and he both gives his own opinion, and, what is more remarkable, the opinion of the King and the Queen, in decided opposition to the policy of the Allies. They were far, indeed, he says, from approving the schemes of the Princes at Coblenz, and complained that those proceedings, adopted not only without their authority, but contrary to their sentiments and inclinations, were calculated to commit them, and to give their enemies a colour for the stories industriously propagated, of their privity to the invasion of France. The Queen, after discussing these points, expressed a desire to send some person of confidence to her brother Leopold, as well as to the Empress Catharine, for the purpose of giving those Sovereigns exact information of the state of things at Paris, and of the wishes of the Royal Family. At her request, our author pointed out a fit person for performing this delicate service; it was M. Simolin, the Russian minister at Paris. He undertook the office; saw both Leopold and Catharine; was with the former till the day of his being taken ill of the malady which proved fatal; fully explained to the latter the whole state of French affairs, and the mischiefs of the course adopted by the Princes; met with the most gracious reception from the Empress, who sent him back to Paris in the same employment, but continued to give her confidence to the emissary of the Coblenz faction. Mr Crawford, upon the authority of the King's friends, who were best acquainted with the negotiation of the time, represents the agents of the Princes, in all the courts, as keeping themselves aloof from the concerns of the Royal family; taking a decided part with a view to their

* The present King of France and his wife.

immediate employers; neglecting the interests, perhaps the safety, of the unfortunate captives; and acting upon the plan of holding all in subserviency to the Coblenz faction. He considers the proceedings at Pilnitz to have been principally the work of Leopold and Frederick, but known to the Count d'Artois, who was there with Calonne. The King and Queen appear to have been ignorant of them until afterwards. The latter said distinctly to himself, 'Si des armées étrangères entrent en France, nous en serons les victimes.' There is but too much reason to believe, that both the Princes and the Allies were far more alive to other considerations than to that which ought to have been uppermost in their minds upon public as well as personal grounds, the safety of the Royal prisoners.

A number of touching particulars are given by Mr Crawford, concerning the demeanour and treatment of those illustrious victims. When an inhuman jailor (if our Tory magistrates and country gentlemen will allow that there can be such a character) would have dragged the King to the window while the head of the Princess de Lamballe was carrying past it, and a superior officer interposed to prevent this atrocity, some member of the municipality asked the jailor's name a day or two afterwards. 'Je l'ignore' (replied the King); 'mais je me rappellerai toujours le nom de celui qui s'est opposé à son affreux dessein.' As soon as the Assembly had taken the name of the Convention, and abolished Royalty, the captives were guarded with extreme vigilance. Louis appears from henceforth (21st September) to have been prepared for his fate; and, being allowed to read, though strictly prevented from corresponding with any one by letter, he borrowed from M. de Malesherbes, his able and intrepid advocate, the volume of Hume's History, where the death of Charles I. is related. Should the book, which he returned a few days afterwards, be found, our author says it will probably contain notes written by the King, whose practice it was to write in the margin of the books he read.

When the trial was fixed, he said to that excellent person, 'Je suis bien persuadé que vous ferez tout ce qui est humainement possible; mais, mon ami, vos peines seront inutiles.' It is well known, that he had come forward from his retirement in the country to defend the King, having quitted the profession some time before the Revolution, and that his honest zeal brought him to the same scaffold. Tronchet and Deseze, however, who had been appointed by the Convention, and, but for their noble conduct, were exposed to less risk, showed the same magnanimous courage in behalf of the illustrious accused. Deseze, in particular, signalized himself, and conferred new honours

upon his profession. Deliberately casting his eye over the assembled tribunal, he exclaimed, 'C'est vainement que je cherche des Juges parmi vous; je n'y vois que des Accusateurs.' In honour of the French Bar, we should ever bear in mind, that its members courageously discharged their duty, amidst all the horrors of the worst times of the Revolution.

The '*Notice sur Marie Antoinette*,' the more interesting of the two which we are examining, begins with a sketch, which bears the marks of being a more faithful likeness than has usually been presented to the publick of the unfortunate princess.

'Marie-Antoinette avoit plus d'éclat que de beauté; ses traits pris séparément n'offroient rien de remarquable, mais leur réunion avoit le plus grand agrément; et cette expression, souvent prodiguée, *pleine de charmes*, paroît la plus propre pour peindre l'ensemble de sa personne. Tous ses mouvemens avoient de la grace; aucune femme ne portoit mieux sa tête. Son esprit avoit peu de brillant, aussi elle ne montrait aucune pretention dans ce genre; mais elle savoit toujours trouvée dans l'occasion ce qu'il y avoit à dire de plus convenable, selon les personnes et les circonstances.'

She was very soon wearied and disgusted with the solemn formalities of court life, and formed a small society for herself, in which she delighted to pass her time, with all the unrestrained freedom of a private station. '*Là je suis moi*,' she would say, when contrasting the enjoyment of her case in this social intercourse, with the stiffness and representation of the royal circle. 'Fatal imprudence!' exclaims our author; 'sourcé of so many misfortunes; for it was thus that she began to lose the affection, respect, and esteem of the publick; and that many great families, indignant at being treated by her with so little attention, ceased to appear at court, except upon occasions when official duties required their presence.' But though she might, in ordinary points, sacrifice to her love of society somewhat of the observances due to her station, no sooner did the hour of difficulty and danger approach, than she displayed those qualities of firmness and courage for which she was so eminently distinguished, even among the threatened and the persecuted of her own rank and sex.

'Dans la soirée du 5 Octobre 1789, on la vit écouter avec le plus grand calme les avis qu'on apportoit à chaque instant de la prochaine arrivée des Parisiens et de leurs intentions sanguinaires. Le Comte de Luxembourg, capitaine des gardes du corps, étant venu de la part du Roi proposer à la Reine de se réfugier avec ses enfans à Rambouillet; "*Dites au Roi*," répondit-elle, "*que je ne me dissimule pas le péril on nous commet, mais que je n'en suis pas intimidée; que ma place est auprès de sa personne, et que rien ne pourra me déterminer à le quitter, sur-tout dans ce moment dangereux.*" Dans la trop

fameuse journée du lendemain, 6 Octobre, des assassins penetrerent à la pointe du jour dans son appartement à Versailles, après avoir massacré les gardes du corps, qui en se sacrifiant pour en defendre l'entrée, lui donnerent le tems de se-refugier chez le Roi. Ses ennemis furieux de la voir echappée, exciterent bientôt la multitude rassemblée sous les fenêtres du Roi, dans la cour de Marbre, à exiger qu'elle se montrât. Elle parut sur le balcon avec ses enfans. Aux cris de "*Point d'enfans ! la Reine seule !*" elle fit rentrer les enfans, et, de l'air le plus calme, se presenta seule à ce peuple furieux, que cet acte de courage etonna. Dans la même journée, trainée à Paris avec le Roi, elle eut à supporter pendant six heures que dura la marche, le spectacle le plus eponvable. Des femmes ivres de vin et de rage faisoient retentir l'air de leurs horribles hurlemens, et des plus grossieres injures. Cet affreux appareil avoit été precedé par des scélérats portant au bout de leurs piques les têtes des gardes du corps qui avoient été massacrés. Bientot après, le châtelet voulant instruire une procédure contres les auteurs des meurtres, envoya une deputation pour demander à la Reine des renseignements sur les attentats dont elle avoit failli être victime. Elle repondit aux commissaires : "*Messieurs, pour ce qui me regarde, j'ai tout vu, tout entendu, tout oublié.*" On l'avertit le 8 Octobre qu'il existoit encore un complot contre sa vie. Dans la soirée, elle racontoit ce qu'elle avoit appris à une dame qui étoit auprès d'elle, en ajoutant. *J'ai ordonné qu'au premier bruit qu'on entendra, l'on porte mes enfans chez le Roi.*

This passage relates to three days only; but her whole conduct, during the four eventful years which succeeded, appears to have been marked by equal coolness and resolution. When the Palace of the Thuilleries was forced by the armed populace, on the 20th June 1792, and the Royal family were only saved by the steadiness of some of the National Guards, the Queen remained with her children, in the presence of the furious multitude, for nearly four hours, during which they filled the various apartments; and she never betrayed the least appearance of alarm. Her conduct was the same on the memorable tenth of August; and, during her imprisonment in the Temple, her composure of mind never forsook her. When the King was sentenced, she only congratulated him upon the prospect of so soon exchanging a miserable existence for the everlasting happiness which awaited him. She had refused an offer made by the ministers Servan and Roland, in May 1792, to remove her to some place of safety abroad, and leave the King, whose chance of regaining the confidence of the country depended, in their opinion, upon her quitting him; but she would not consent to purchase her own safety by what she considered an abandonment of her husband, in the extremity of his distress and dan-

ger. After his death, she refused a proposition to escape, because the attempt could only be made by leaving her children behind. Our author was acquainted with the particulars of this plan; and says it had been well digested by trust-worthy persons, and appeared sure of success. He saw, likewise, the Queen's letters upon the subject. When brought to the scaffold, her appearance was wofully changed by the sorrows and hardships through which she had passed; her features were altered; her hair was blanched; and she had almost lost the use of one eye. The last words of Louis, when the noise of the drums interrupted his address, are well known. '*Français! Je meurs innocent; je pardonne à mes ennemis, et je souhaite que ma mort soit utile au peuple!—La France.*' - - - Those of the Queen were equally remarkable and appropriate. '*Seigneur! éclaire; et touche mes bourreaux; Adieu, mes enfans! je vais rejoindre votre père.*' We may add that, from a conversation which this ill-fated Princess had with our author, upon a letter full of warm expressions just received from her nephew the Emperor Francis, it is clear she never placed the least reliance upon his exertions in her behalf. '*Mon neveu*' (she said) '*ne pouvoit pas m'écrire autrement; mais cela ne veut rien dire.*'—'He could not help saying as much; but it all means nothing.'

The anecdotes of Madame Goupil and Madame Caponet are only curious as showing the innumerable frauds which are practised in a court, by the creatures both of princes and ministers; and how easily, without any participation in the spoil, or even any knowledge of such proceedings on the part of the principals, the grossest corruption may be carried on by subaltern agents in a government, the transactions of which are veiled from publick view. But the piece which closes this volume deserves more attention; it is a sketch of Baron de Thugut, so long prime minister of Austria, and who held that high office during the greater part of the late war. Our author justly observes, that there was much in his character and habits equally interesting to the philosopher and the politician. Possessed of supreme power for so many years, and undergoing all its labours as well as anxiety, he seemed wholly indifferent to every one of the gratifications for which other men desire it.

'Il ne voyoit dans l'éclat de la représentation, dans un accroissement de fortune, que des soins fatigans et de brillans embarras. Sans entours, sans protégés, il écartoit de lui le faste, ne connoissoit pas le luxe; il ne donnoit jamais de ces audiences publiques, où souvent l'orgueil jouit des empressemens d'une multitude d'hommes toujours prêts à se courber devant le crédit. Suivi d'un seul laquais, le premier ministre de la Monarchie Autrichienne, se rendoit matin et

soir dans le carrosse le plus simple, de la modeste maison qu'il habitoit dans un faubourg de Vienne, à la Chancellerie d'état, comme un connu se rend à son bureau. Maître de cet hotel ou habitoient ses predecesseurs, il en dedaignoit les appartemens somptueux, pour se refugier dans un petit cabinet de travail; là il étoit tout entier aux affaires, ouvroit de sa main les dépêches les plus importantes, recevoit les ministres étrangers qui lui avoient demandé audience, enfermait ensuite ses papiers sous clé, et retournoit chez lui dîner avec une ou deux personnes insignifiantes, qu'il faisoit discourir, sans jamais laisser échapper le moindre mot qui pût dévoiler ses projets ou ses opinions.

Mr Crawford knew this singular man personally, and had an opportunity of conversing intimately with him after his retirement, and when he had no interest in deceiving; he also knew a great number of persons who had long been upon the most familiar terms with him. It requires this authority to make us believe in the existence of such a minister,—most rare indeed any where, but in a German court hardly conceivable. He adds, that his person was unknown to the greater part of the people at Vienna, where he lived and ruled.

Il avoit, en général, de la politesse dans ses manières et ses discours, mais il ignoroit ou dedaignoit l'art de se concilier l'affection. Sans gout, sans passion, sans famille; * insensible aux jouissances de la vanité, il avoit pour la fortune cette insouciance qu'on peut remarquer dans plusieurs savans absorbés par l'étude, et qui naît de l'aversion de tout soin domestique. Loin de rechercher les honneurs, il paroissoit plutôt vouloir les éviter. Son détachement de tout intérêt, et de tout desir d'élévation, ajoutoit puissamment à son esprit d'indépendance. D'autant plus inébranlable dans sa place, qu'on savoit qu'il la quitteroit sans regret, il s'y maintenoit par le seul ascendant de son genie, malgré l'opposition de toute la noblesse qui, blessée de voir un homme qui n'étoit point de sa classe, occuper la première place de la Monarchie, se declara overttement contre lui. Avec ces diverses qualités, il faut faire contraster une certaine lenteur ou negligence qui, s'emparant de lui quelquefois, lui faisoit perdre des momens précieux; des accès d'humeur l'empêchoient de chercher des rapprochemens, soit avec les personnes, soit avec les puissances; rapprochemens que la bonne politique exigeoit cependant.

What the combined efforts of the Austrian grandees could not effect, the intrigues of Russia and England succeeded in accomplishing, under the guidance of that truly wretched party, the French Emigrants, who made it a rule to distrust and to blacken every statesman whose good sense and knowledge of

* Except a sister who was a nun at Lintz, and whom he allowed a small pension of thirty pounds a year, and a brother, who lived and died a clerk in his office.

affairs led him to adopt a moderate, rational, and practicable line of policy. Thugut was removed; but not till after the same English and Russian influence had dictated to the Cabinet of Vienna, and the truly able general then in its confidence, those changes in the Swiss campaign which proved fatal to the Allies, and afterwards to the Austrian monarchy. A remark afterwards made by Thugut to our author, upon the events of those times, merits the attention of those who still affect to admire Mr Pitt's foreign policy. 'The greater part,' he said, 'of the schemes which had been pressed upon him, founded upon the reports of faithless agents, or upon fanciful assumption, were more fit to make a supplement to the adventures of Don Quixote, than to become the subject of a serious discussion.' At a later period, we have heard of a similar observation being drawn forth by that project, which, whether we regard its conception or its results, may be allowed to have cast all Mr Pitt's failures into the shade—we mean the celebrated Walcheren expedition. When the intention of our sage rulers to operate a diversion in that island, for the advantage of the Austrian arms, and to pour into its pestilential marshes our whole disposable force, was imparted to our allies, the imperial minister is said to have asked, with an archness that overcame the Germanic phlegm, in what part of the world this same Walcheren was situated.

Let it not be said that we have bestowed too much attention upon this volume, in proportion to its bulk, or to the modest pretensions of its contents. The facts related by Mr Crawford, from his personal observation, are among the few safe materials that will remain for illustrating the history of these eventful times; and the future annalist will gladly have recourse to the testimony of one who, though unquestionably he may have been biased by partiality, yet noted what he saw and heard, in circumstances which preclude all suspicion of a wish to deceive.

ART. III. 1. *The Third Report of the Committee of the Society for the Improvement of Prison Discipline, and for the Reformation of Juvenile Offenders.* London, 1821.

2. *Remarks upon Prison Discipline, &c. &c. in a Letter addressed to the Lord Lieutenant and Magistrates of the County of Essex.* By C. C. WESTERN, Esq. M. P. London, 1821.

THERE never was a Society calculated, upon the whole, to do more good than the Society for the Improvement of Prison Discipline; and, hitherto, it has been conducted with equal ener-

gy and prudence. If now, or hereafter, therefore, we make any criticisms on their proceedings, these must not be ascribed to any deficiency of good will or respect. We may differ from the Society in the means—our ends, we are proud to say, are the same.

In the improvement of prisons, they consider the small number of *recommitments* as the great test of amelioration. Upon this subject we have ventured to differ from them in a late Number; and we see no reason to alter our opinion. It is a mistake, and a very serious and fundamental mistake, to suppose that the principal object in jails is the reformation of the offender. The principal object undoubtedly is, to prevent the repetition of the offence by the punishment of the offender; and, therefore, it is quite possible to conceive that the offender himself may be so kindly, gently, and agreeably led to reformation, by the efforts of good and amiable persons, that the effect of the punishment may be destroyed, at the same time that the punished may be improved. A prison may lose its terror and discredit, though the prisoner may return from it a better scholar, a better artificer, and a better man. The real and only test in short of a good prison system, is the diminution of offences by the terror of the punishment. If it can be shown, that, in proportion as attention and expense have been employed upon the improvement of prisons, the number of commitments has been diminished,—this indeed would be a convincing proof that such care and attention were well employed. But the very reverse is the case; the number of commitments within these last ten years having nearly doubled all over England.

The following are stated to be the committals in Norfolk county goal. From 1796 to 1815, the number averaged about 80.

In 1816	it was	134
1817	-	142
1818	-	159
1819	-	161
1820	-	223— <i>Report</i> , p. 57.

In Staffordshire, the commitments have gradually increased from 195 in 1815, to 443 in 1820—though the jail has been built since Howard's time at an expense of 30,000*l.*—*Report*, p. 67. In Wiltshire, in a prison which has cost the county 40,000*l.*, the commitments have increased from 207 in 1817, to 504 in 1821. Within this period, to the eternal scandal and disgrace of our laws, 378 persons have been committed for Game offences—constituting a sixth part of all the persons committed;—so much for what our old friend, Mr Justice Best, would term the un-

speakable advantages of country gentlemen residing upon their own property !

When the Committee was appointed in the county of Essex in the year 1818, to take into consideration the state of the gaol and houses of correction, they found that the number of prisoners annually committed had increased, within the ten preceding years, from 559 to 1993 ; and there is little doubt (adds Mr Western) of this proportion being a tolerable specimen of the whole kingdom. We are far from attributing this increase solely to the imperfection of prison discipline. Increase of population, new statutes, the extension of the breed of pheasants, landed and mercantile distress, are very operative causes. But the increase of commitments is a stronger proof against the present state of prison discipline, than the decrease of recommitments is in its favour. We may possibly have made some progress in the art of teaching him who has done wrong, to do so no more ; but there is no proof that we have learnt the more important art, of deterring those from doing wrong who are doubting whether they shall do it or not, and who, of course, will be principally guided in their decision by the sufferings of those who have previously yielded to temptation.

There are some assertions in the Report of the Society, to which we can hardly give credit,—not that we have the slightest suspicion of any intentional misrepresentation, but that we believe there must be some unintentional error.

The Ladies' Committees visiting Newgate and the Borough Compter, have continued to devote themselves to the improvement of the female prisoners, in a spirit worthy of their enlightened zeal and Christian charity. The beneficial effects of their exertions have been evinced by the progressive decrease in the number of female prisoners recommitted, which has diminished, since the visits of the Ladies to Newgate, no less than 40 per cent.

That is, that Mrs Fry and her friends have reclaimed forty women out of every hundred, who, but for them, would have reappeared in jails. Nobody admires and respects Mrs Fry more than we do ; but this fact is scarcely credible ; and, if accurate, ought, in justice to the reputation of the Society and its real interests, to have been thoroughly substantiated by names and documents. The Ladies certainly lay claim to no such extraordinary success in their own Report quoted in the Appendix ; but speak with becoming modesty and moderation of the result of their labours. The enemies of all these reforms accuse the reformers of enthusiasm and exaggeration. It is of the greatest possible consequence, therefore, that their statements should be correct, and their views practical ; and that all strong assertions should be supported by strong documents. The Eng-

lish are a calm, reflecting people; they will give time and money when they are convinced; but they love dates, names, and certificates. In the midst of the most heart-rending narratives, Bull requires the day of the month, the year of our Lord, the name of the parish, and the countersign of three or four respectable householders. After these affecting circumstances, he can no longer hold out; but gives way to the kindness of his nature—puffs, blubbers, and subscribes!

A case is stated in the Hertford house of correction, which so much more resembles the sudden conversions of the Methodist Magazine, than the slow and uncertain process by which repentance is produced in real life, that we are a little surprised the Society should have inserted it.

‘Two notorious poachers, as well as bad men, were committed for three months, for not paying the penalty after conviction, but who, in consequence of extreme contrition and good conduct, were, at the intercession of the clergyman of their parish, released before the expiration of their term of punishment. Upon leaving the House of Correction, they declared that they had been completely brought to their senses—spoke with gratitude of the benefit they had derived from the advice of the chaplain, and promised, upon their return to their parish, that they would go to their minister, express their thanks for his interceding for them; and moreover that they would, for the future, attend their duty regularly at church. It is pleasing to add, that these promises have been faithfully fulfilled.’—*App. to Third Report*, pp. 29–30.

Such statements prove nothing, but that the clergyman who makes them is an amiable man, and probably a college tutor. Their introduction, however, in the Report of a Society depending upon public opinion for success, is very detrimental.

It is not fair to state the recommitments of one prison, and compare them with those of another, perhaps very differently circumstanced,—the recommitments, for instance, of a county jail, where offences are generally of serious magnitude, with those of a borough, where the most trifling faults are punished. The important thing would be, to give a table of recommitments, in the same prison, for a series of years,—the average of recommitments, for example, every five years in each prison for twenty years past. If the Society can obtain this, it will be a document of some importance, (though of less perhaps than they would consider it to be). At present they tell us, that the average of recommitments in certain prisons is 3 per cent.; in certain other prisons 5 per cent.: ‘But what were they twenty years ago in the same prison?—what were they five years ago? If recommitments are to be the test, we must know whether these are becoming, in any given prison, more or less frequent, before we can determine whether that prison is better or worse go-

verned than formerly. Recommitments will of course be more numerous where prisoners are received from large towns, and from the resorts of soldiers and sailors; because, it is in these situations that we may expect the most hardened offenders. The different nature of the two soils which grow the crimes, must be considered before the produce gathered into prisons can be justly compared.

The quadruple column of the state of prisons for each year, is a very useful and important document; and we hope, in time, the Society will give us a general and particular table of commitments and recommitments carried back for twenty or thirty years; so that the table may contain (of Gloucester jail, for instance), *1st*, the greatest number it can contain; *2dly*, the greatest number it did contain at any one period in each year; *3dly*, its classification; *4thly*, the greatest number committed in any given year; *5thly*, four averages of five years each, taken from the twenty years preceding, and stating the greatest number of commitments; *6thly*, the greatest number of recommitments in the year under view; and four averages of recommitments, made in the same manner as the average of the commitments; and then totals at the bottom of the columns. Tables so constructed would throw great light upon the nature and efficacy of imprisonment.

We wish the Society would pay a little more attention to the question of solitary imprisonment, both in darkness and in light; and to the extent to which it may be carried. Mr West-eru has upon this subject some ingenious ideas.

‘ It appears to me, that, if relieved from these impediments, and likewise from any idea of the necessity of making the labour of prisoners profitable, the detail of corrective prison discipline would not be difficult for any body to chalk out. I would first premise, that the only punishment for refractory conduct, or any misbehaviour in the gaol, should, in my opinion, be solitary confinement; and that, instead of being in a dark hole, it should be in some part of the house where they could fully see the light of day; and I am not sure that it might not be desirable in some cases, if possible, that they should see the surrounding country and moving objects at a distance, and every thing that man delights in, removed at the same time from any intercourse of word or look with any human being, and quite out of the reach of being themselves seen. I consider such confinement would be a punishment very severe, and calculated to produce a far better effect than darkness. All the feelings that are good in men would be much more likely to be kept alive; the loss of liberty, and all the blessings of life which honesty will ensure, more deeply to be felt. There would not be so much danger of any delinquent sinking into that state of sullen, insensible condition,

of incorrigible obstinacy, which sometimes occurs. If he does under those circumstances, we have a right to keep him out of the way of mischief, and let him there remain. But I believe such solitary confinement as I have described, with scanty fare, would very rarely fail of its effect.'—*Western's Remarks*, pp. 59, 60.

There is a good deal in this; it is well worth the trial; and we hope the Society will notice it in their next Report.

It is very difficult to hit upon degrees; but we cannot help thinking the Society lean too much to a system of indulgence and education in jails. We shall be very glad to see them more stern and Spartan in their discipline. They recommend work, and even hard work; but they do not insist upon it, that the only work done in jails by felons should be hard, dull, and uninteresting; they do not protest against the conversion of jails into schools and manufactories. Look, for example, to 'Preston house of correction.'

'Preston house of correction is justly distinguished by the industry which prevails. Here an idle hand is rarely to be found. There were lately 150 looms in full employ, from each of which the average weekly earnings are 5s. About 150 pieces of cotton goods are worked off per week. A considerable proportion of the looms are of the prisoners' own manufacture. In one month, an inexperienced workman will be able to earn the cost of his gaol-allowance of food. Weaving has these advantages over other prison labour: the noise of the shuttle prevents conversation, and the progress of the work constantly requires the eye. The accounts of this prison, contained in the Appendix, deserve particular attention, as there appears to be a balance of clear profit to the county, from the labour of the prisoners, in the year, of 1398*l.* 9*s.* 1*d.* This sum was earned by weaving and cleaning cotton only, the prisoners being besides employed in tailoring, whitewashing, flagging, slating, painting, carpentering, and labourers' work; the earnings at which are not included in the above account.'—*Third Report*, pp. 21, 22.

'At Worcester county gaol, the system of employment is admirable. Every article of dress worn by the prisoners here is made from the raw material: sacking and bags are the only articles made for sale.'—*Ib.* p. 23.

'In many prisons, the instruction of the prisoners in reading and writing has been attended with excellent effects. Schools have been formed at Bedford, Durham, Chelmsford, Winchester, Hereford, Maidstone, Leicester House of Correction, Shrewsbury, Warwick, Worcester, &c. Much valuable assistance has been derived in this department from the labours of respectable individuals, especially females, acting under the sanction of the magistrates, and direction of the chaplain.'—*Ib.* pp. 30, 31.

We again enter our decided protest against these modes of occupation in prisons; they are certainly better than mere idle-

ness spent in society ; but they are not the kind of occupations which render prisons terrible. We would banish all the toms of Preston jail, and substitute nothing but the tread-wheel, or the capstan, or some species of labour where the labourer could not see the results of his toil,—where it was as monotonous, irksome, and dull as possible,—pulling and pushing, instead of reading and writing,—no share of the profits—not a single shilling. There should be no tea and sugar,—no assemblage of female felons round the washing-tub,—nothing but beating hemp, and pulling oakum, and pounding bricks,—no work but what was tedious, unusual, and unfeminine. Man, woman, boy and girl, should all leave the jail, unimpaired indeed in health, but heartily wearied of their residence ; and taught, by sad experience, to consider it as the greatest misfortune of their lives to return to it. We have the strongest belief that the present lenity of jails, the education carried on there—the cheerful assemblage of workmen—the indulgence in diet—the shares of earnings enjoyed by prisoners, are one great cause of the astonishingly rapid increase of commitments.

Mr Western, who entirely agrees with us upon these points, has the following judicious observations upon the severe system.

‘ It may be imagined by some persons, that the rules here prescribed are too severe ; but such treatment is, in my opinion, the tenderest mercy, compared with that indulgence which is so much in practice, and which directly tends to ruin, instead of saving, its unfortunate victim. This severity it is which in truth forms the sole effective means which imprisonment gives ; only one mitigation therefore, if such it may be termed, can be admissible, and that is, simply to shorten the duration of the imprisonment. The sooner the prisoner comes out the better, if fully impressed with dread of what he has suffered, and communicates information to his friends what they may expect if they get there. It appears to me, indeed, that one great and primary object we ought to have in view is, generally, to shorten the duration of imprisonment, at the same time that we make it such a punishment as is likely to deter, correct, and reform : shorten the duration of imprisonment before trial, which we are called upon, by every principle of moral and political justice, to do ; shorten also the duration of imprisonment after trial, by the means here described, and I am satisfied our prisons would soon lose, or rather would never see, half the number of their present inhabitants. The long duration of imprisonment, where the discipline is less severe, renders it perfectly familiar, and, in consequence, not only destitute of any useful influence, but obviously productive of the worst effects ; yet this is the present practice ; and I think, indeed, criminals are now sentenced to a longer period of confinement than formerly.

‘ The deprivation of liberty certainly is a punishment under any circumstances ; but the system generally pursued in our gaols might

rather be considered as a palliative of that punishment, than to make it effectual to any good purpose. An idle life, society unrestrained, with associates of similar character and habits, better fare and lodging in many cases, and in few, if any, worse than falls to the lot of the hard-working and industrious peasant; and very often much better than the prisoners were in the enjoyment of before they were apprehended.

‘I do not know what could be devised more agreeable to all the different classes of offenders, than this sort of treatment: the old hardened sinner, the juvenile offender, or the idle vagabond who runs away and leaves a sick wife and family to be provided for by his parish, alike have little or no apprehension, at present, of any imprisonment to which they may be sentenced; and thus are the most effective means we possess, to correct and reform, rendered totally unavailable, and even perverted, to the more certain ruin of those who might be restored to society good and valuable members of it.

‘There are, it is true, various occupations now introduced into many prisons, but which, I confess, I think of very little use; drawing and preparing straws, platting, knitting, heading pins, &c. weaving and working at a trade even, as it is generally carried on, prisoners coaxed to the performance of it, the task easy, the reward immediate, afford rather the means of passing away the time agreeably. These occupations are indeed better than absolute idleness, notwithstanding that imprisonment may be rendered less irksome thereby. I am far from denying the advantage, still less would I be supposed to derogate from the merits of those who, with every feeling of humanity, and with indefatigable pains, in many instances, have established such means of employment, and some of them for women, with washing, &c. amount to hard labour; but I contend that, for men, they are applicable only to a house of industry, and by no means suited to the corrective discipline which should be found in a prison. Individuals are sent here to be punished, and for that sole purpose; in many cases for crimes which have induced the forfeiture of life; they are not sent to be educated, or apprenticed to a trade. The horrors of dungeon imprisonment, to the credit of the age, no longer exist: But if no cause of dread is substituted, by what indication of common sense is it that we send criminals there at all? If prisons are to be made into places in which persons of both sexes and all ages may be well fed, clothed, lodged, educated, and taught a trade, where they may find pleasant society, and are required not to take heed for the morrow, the present inhabitants should be turned out, and the most deserving and industrious of our poorest fellow-subjects should be invited to take their place, which I have no doubt they would be eager to do.’—*Western*, pp. 13–17.

In these sentiments we most cordially agree. They are well worth the most serious attention of the Society.

The following is a sketch from Mr Western’s book, of what

a prison life should be. It is impossible to write with more good sense, and a more thorough knowledge of the subject.

‘ The operations of the day should begin with the greatest punctuality at a given hour ; and as soon as the prisoners have risen from their beds, they should be, according to their several classes, marched to the work-houses, where they should be kept to hard labour two hours at least ; from thence they should be taken back to wash, shave, comb, and clean themselves ; thence to the chapel to hear a short prayer, or the governor or deputy should read to them in their respective day-rooms ; and then their breakfast, which may, altogether, occupy an hour and a half or more. I have stated, in a former part of my letter, that the hours of meals and leisure should be in solitude, in the sleeping cells of the prison ; but I presume, for the moment, this may not always be practicable. I will therefore consider the case as if the classes assembled at meal-times in the different day-rooms. After breakfast, they should return to hard labour for three or four hours, and then take another hour for dinner ; labour after dinner two or three hours, and their supper given them to eat in solitude in their sleeping cells.

‘ This marching backwards and forwards to chapel and mill-house, &c. may appear objectionable, but it has not been so represented to me in the prisons where it actually now takes place ; and it is, to my apprehension, materially useful in many respects. The object is, to keep the prisoners in a state of constant motion, so that there shall be no lounging time or loitering, which is always favourable to mischief or cabal. For the same reason it is I propose two hours’ labour the moment they are up, and before washing, &c. that there may be no time lost, and that they may begin the day by a portion of labour, which will tend to keep them quiet and obedient the remainder of it. Each interval for meal thus occurring between labour hours, has also a tendency to render the mischief of intercourse less probable, and at the same time the evening association, which is most to be apprehended in this respect, is entirely cut off. The frequent moving of the prisoners from place to place keeps the governor and sub-officers of the prison in a similar state of activity and attention, which is likewise of advantage, though their numbers should be such as to prevent their duty becoming too arduous or irksome. Their situation is not pleasant, and their responsibility is great. An able and attentive governor, who executes all his arduous duties with unremitting zeal and fidelity, is a most valuable public servant, and entitled to the greatest respect ; he must be a man of no ordinary capacity, with a liberal and comprehensive mind, possessing a control over his own passions, firm and undaunted, a character that commands from those under him, instinctively, as it were, respect and regard. In vain are our buildings, and rules and regulations, if the choice of a governor is not made an object of primary and most solicitous attention and consideration.

‘ It does not appear to me necessary for the prisoners to have

more than three hours' leisure, inclusive of meal times; and I am convinced the close of the day must be in solitude. Eight or ten hours will have passed in company with their fellow-prisoners of the same class (for I am presuming that a separate compartment of the work-house will be allotted to each) where, though they cannot associate to enjoy society as they would wish, no gloom of solitude can oppress them; there is more danger even then of too close an intercourse and conversation, though a ready cure is in that case to be found by a wheel put in motion, the noise of which speedily overcomes the voice. Some time after Saturday night should be allowed to them, more particularly to cleanse themselves and their clothes, and they should have a bath, cold or warm, if necessary; and on the Sunday, they should be dressed in their best clothes, and the day should be spent wholly in the chapel, the cell, and the airing-ground, the latter in presence of a day-watchman, as I have described to be in practice at Warwick. I say nothing about teaching to read, write, work, &c. &c.; any proportion of time necessary for any useful purpose may be spared from the hours of labour or of rest, according to circumstances; but I do not place any reliance upon improvement in any branch of education; they would not indeed be there long enough. All I want them to learn is, that there exists the means of punishment for crime, and be fully impressed with dread of repetition of what they have undergone; and a short time will suffice for that purpose. Now, if each successive day was spent in this manner, can it be doubted that the frequent commission of crime would be checked, and more done to deter, correct and reform, than could be accomplished by any other punishment? A period of such discipline, longer or shorter, according to the nature of the offence, would surely be sufficient for any violation of the law, short of murder, or that description of outrage which is likely to lead on to the perpetration of it. This sort of treatment is not to be overcome; it cannot be braved, or laughed at, or disregarded, by any force of animal spirits, however strong or vigorous of mind or body the individual may be. The dull, unvarying course of hard labour, with hard fare and seclusion, must in time become so painfully irksome, and so wear and distress him, that he will inevitably, in the end, be subdued. — *Western*, pp. 64–69.

There is nothing in the Report of the Prison Society so good as this.

The Society very properly observe upon the badness of town jails, and the necessity for their suppression. Most towns cannot spare the funds necessary for building a good jail. Shipkeepers cannot spare the time for its superintendence; and hence it happens, that town jails are almost always in a disgraceful state. The Society frequently allude to the diffusion of tracts. If education is to be continued in jails, and tracts are to be dispersed, we cannot help lamenting that the tracts,

though full of good principles, are so intolerably stupid—and all apparently constructed upon the supposition, that a thief or a peccant ploughman are inferior in common sense to a boy of five years old. The story generally is, that a labourer with six children has nothing to live upon but mouldy bread and dirty water; yet nothing can exceed his cheerfulness and content—no murmurs—no discontent: of mutton he has scarcely heard—of bacon he never dreams: fursurous bread and the water of the pool constitute his food, establish his felicity, and excite his warmest gratitude. The squire or parson of the parish always happen to be walking by, and overhear him praying for the King and the Members for the county, and for all in authority; and it generally ends with their offering him a shilling, which this excellent man declares he does not want, and will not accept! These are the pamphlets which Goodies and Noodles are dispersing with unwearied diligence. It would be a great blessing if some genius would arise who had a talent of writing for the poor. He would be of more value than many poets living upon the banks of lakes—or even (though we think highly of ourselves) of greater value than many reviewing men dwelling in the garrets of the North.

The Society offer some comments upon the Prison Bill now pending, and which, unfortunately * for the cause of prison improvement, has been so long pending in the Legislature. In the copy of this Bill, as it stands at present, nothing is said of the limitation of numbers in any particular class. We have seen forty felons of one class in one yard before trial. If this is to continue, all prison improvement is a mere mockery. Separate sleeping cells should be enacted positively, and not in words, which leave this improvement optional. If any visiting Justice dissents from the majority, † it should be lawful for him to give in a separate report upon the state of the prison and prisoners to the Judge or the Quarter-sessions. All such reports of any visiting magistrate or magistrates, not exceeding a certain length, should be published in the county papers. The chairman's report to the Secretary of State should be published in the same manner. The great panacea is publicity; it is this which secures compliance with wise and just laws, more than all the penalties they contain for their own preservation.

* The county of York, with a prison under presentment, has been waiting nearly three years for this Bill, in order to proceed upon the improvement of their county gaol.

† It would be an entertaining change in human affairs to determine every thing by *minorities*. They are almost always in the right.

We object to the reading and writing clause. A poor man, who is lucky enough to have his son committed for a felony, educates him, under such a system, for nothing; while the virtuous simpleton on the other side of the wall is paying by the quarter for these attainments; he sees clergymen and ladies busy with the larcenous pupil; while the poor lad who respects the 8th Commandment is consigned, in some dark alley, to the frowns and blows of a ragged pedagogue. It would be the safest way, where a prisoner is kept upon bread and water alone, to enact that the allowance of bread should not be less than a pound and a half for men, and a pound for women and boys. We strongly recommend, as mentioned in a previous Number, that four sorts of diet should be enacted for every prison; 1st, Bread and water; 2d, Better prison diet; 3d, Best prison diet; 4th, Free diet—the second and third to be defined by the visiting magistrates; all sentences of imprisonment should state to which of these diets the prisoner is to be confined; and all deviation from it on the part of the prison officers should be punished with very severe penalties. The regulation of diet in a prison is a point of the very highest importance; and to ask of visiting magistrates that they should doom to bread and water a prisoner, whom the law has left at liberty to purchase whatever he has money to procure, is a degree of severity which it is hardly fair to expect from country gentlemen; and, if expected, those expectations will not be fulfilled. The whole system of diet, one of the mainsprings of all prison discipline, will get out of order, if its arrangement is left to the interference of magistrates, and not to the sentence of the judge. Free diet and bread diet need no interpretation; and the jailor will take care to furnish the judge with the definitions of better prison diet, and best prison diet. A knowledge of the diet prescribed in a jail is absolutely necessary for the justice of the case. Diet differs so much in different prisons, that six weeks in one prison is as severe a punishment as three months in another. If any country gentleman, engaged in legislation for prisons, is inclined to undervalue the importance of these regulations, let him appeal to his own experience, and remember, in the vacuity of the country, how often he thinks of dinner, and of what there will be for dinner, and how much his amenity and courtesy for the evening depend upon the successful execution of this meal. But there is nobody so gluttonous and sensual as a thief; and he will feel much more bitterly fetters on his mouth than his heels. It sometimes happens that a gentleman is sentenced to imprisonment, for manslaughter in a duel, or for a libel. Are visiting Justices to doom such a prisoner to bread and water? or are *they* to make an invidious distinction between

him and the other prisoners? The diet should be ordered by the Judge, or it never will be well ordered—or ordered at all.

The most extraordinary clause in the bill is the following—

‘ And be it further enacted, that in case any criminal prisoner shall be guilty of any repeated offence against the rules of the prison, or shall be guilty of *any greater offence* which the gaoler or keeper is not by this act empowered to punish, the said gaoler or keeper shall report the same to the visiting Justices, or one of them, for the time being; and such Justices, or one of them, shall have power to inquire upon oath, and determine concerning any such offence so reported to him or them, and shall order the offender to be punished, either by moderate whipping, repeated whippings, or by close confinement for any term not exceeding — *Act*, p. 21.

Upon this clause, any one Justice may order repeated whippings for any offence greater than that which the jailor may punish. Our respect for the Committee will only allow us to say, that we hope this clause will be reconsidered. We beg leave to add, that there should be a return to the Principal Secretary of State of recommitments as well as commitments.

It is no mean pleasure to see this attention to jail-discipline travelling from England to the detestable and despotic governments of the Continent,—to see the health and life of captives admitted to be of any importance,—to perceive that human creatures in dungeons are of more consequence than rats and black beetles. All this is new—is some little gained upon tyranny; and for it we are indebted to the labours of the Prison Society. Still the state of prisons, on many parts of the Continent, is shocking beyond all description.

It is a most inconceivable piece of cruelty and absurdity in the English law, that the prisoner’s counsel, when he is tried for any capital felony, is not allowed to speak for him: and this we hope the new prison bill will correct. Nothing can be more ridiculous in point of reasoning, or more atrociously cruel and unjust in point of fact. Any number of counsel may be employed to take away the poor man’s life. They are at full liberty to talk as long as they like; but not a syllable is to be uttered in his defence—not a sentence to show why the prisoner is not to be hung. This practice is so utterly ridiculous to any body but lawyers (to whom nothing that is customary is ridiculous), that men not versant with courts of justice will not believe it. It is indeed so utterly inconsistent with the common cant of the humanity of the English law, that it is often considered to be the mistake of the narrator, rather than the imperfection of the system. We must take this opportunity, therefore, of making a few observations on this very strange and anomalous practice.

The common argument used in its defence is, that the Judge is counsel for the prisoner. But the defenders of this piece of cruel and barbarous nonsense, must first make their election, whether they consider the prisoner to be, by this arrangement, in a better, a worse, or an equally good situation as if his counsel were allowed to plead for him. If he is in a worse situation, why is he so placed? Why is a man, in a solemn issue of life and death, deprived of any fair advantage which any suitor in any court of justice possesses? This is a plea of guilty to the charge we make against the practice; and its advocates, by such concession, are put out of court. But, if it is an advantage, or no disadvantage,—whence comes it that the choice of this advantage, in the greatest of all human concerns, is not left to the party, or to his friends? If the question concerns a footpath—or a fat ox—every man may tell his own story, or employ a barrister to tell it for him. The law leaves the litigant to decide on the method most conducive to his own interest: But, when the question is, whether he is to live or die, it is at once decided for him that his counsel are to be dumb! And yet, so ignorant are men of their own interests, that there is not a single man tried, who would not think it a great privilege if counsel were allowed to speak in his favour, and who would not be supremely happy to lay aside the fancied advantage of their silence. And this is true not merely of ignorant men; but there is not an Old Bailey barrister who would not rather employ another Old Bailey barrister to speak for him, than enjoy the advantage (as the phrase is) of having the Judge for his counsel. But in what sense, after all, is the Judge counsel for the prisoner? He states, in his summing up, facts as they have been delivered in evidence; and he tells the jury upon what points they are to decide: he mentions what facts are in favour of the prisoner, and what bear against him; and he leaves the decision to the jury. Does he do more than this in favour of the prisoner? Does he mistake? does he mislead? does he bring forward arguments on one side of the question, and omit equally important arguments on the other? If so, he is indeed counsel for the prisoner; but then, who is Judge? who takes care of the interests of the public? But the truth is, he does no such thing; he does merely what we have stated him to do; and would he do less? could he do less, if the prisoner's counsel spoke for him? If an argument was just, or an inference legitimate, he would not omit the one, or refute the other, because they had been put or drawn in the speech of the prisoner's counsel. He would be no more prejudiced against the defendant in a criminal than in a civil suit; he would select, from the

speeches of both counsel, all that could be *fairly* urged for or against the defendant, and he would reply to their fallacious reasonings. The pure administration of justice requires of him, in either case, the same conduct. Whether the whole Bar spoke for the prisoner, or whether he was left to defend himself,—what can the judge do, or what ought he to do, but to state to the jury the facts as they are given in evidence, and the impression these facts have made upon his own mind? In the mean time, while the prisoner's counsel have been compelled to be silent, the accuser's, the opposite party, have enjoyed an immense advantage. In considering what bears against the prisoner, the judge has heard not only the suggestions of his own understanding, but he has been exposed to the able and artful reasoning of a practised advocate, who has been previously instructed in the case, of which the judge never heard a syllable before he came into court. Suppose it to be a case depending upon circumstantial evidence; in how many new points of view may a man of genius have placed those circumstances, which would not have occurred to the judge himself? How many inferences may he have drawn, which would have been unnoticed but for the efforts of a man whose bread and fame depend upon his exertions, and who has purposely, and on contract, flung the whole force of his understanding into one scale? In the mean time, the prisoner can say nothing, for he has not the gift of learned speech; his counsel can say nothing, though he has communicated with the prisoner, and could place the whole circumstances perhaps in the fairest and clearest point of view for the accused party. By the courtesy of England, this is called *justice*—we, in the North, cannot admit of the correctness of the appellation.

It seems utterly to be forgotten, in estimating this practice, that two understandings are better than one. The judge must inevitably receive many new views against the prisoner by the speech of one counsel, and lose many views in favour of the prisoner by the silence of the other. We are not to suppose (like ladies going into court in an assize town) that the judge would have thought of every thing which the counsel against the prisoner has said, and which the counsel for the prisoner would have said. The judge, wigged and robed as he is, is often very inferior in acuteness to either of the persons who are pleading under him—a cold, slow, parchment and precedent man, without passions or præcordia,—perhaps a sturdy brawler for Church and King,—or a quiet man of ordinary abilities, steadily, though perhaps conscientiously, following those in power through thick and thin—through right and

wrong. Whence comes it that the method of getting at truth, which is so excellent on all common occasions, should be considered as so improper on the greatest of all occasions, where the life of a man is concerned? If an acre of land is to be lost or won, one man says all that can be said on one side of the question—another on the other; and the jury, aided by the impartiality of the judge, decide. The wit of man can devise no better method of disentangling difficulty, exposing falsehood, and detecting truth. “Tell me why I am hurried away to a premature death, and no man suffered to speak in my defence, when at this very moment, and in my hearing, all the eloquence of the Bar on the other side of your justice-hall is employed in defending a path or an hedge? Is a foot of land dearer to any man than my life is to me? The civil plaintiff has not trusted the smallest part of his fate or fortune to his own efforts, and will you grant me no assistance of superior wisdom, who have suffered a long famine to purchase it—who am broken by prison—broken by chains—and so shamed by this dress of guilt, and abashed by the presence of my superiors, that I have no words which you could hear without derision—that I could not give way for a moment to the fullness and agitation of my rude heart without moving your contempt?” So spoke a wretched creature to a judge in our hearing! and what answer could be given, ‘but, jailor, take him away?’

We are well aware that a great decency of language is observed by the counsel employed against the prisoner, in consequence of the silence imposed upon the opposite counsel; but then, though there is a decency, as far as concerns impassioned declamation, yet there is no restraint, and there can be no restraint, upon the reasoning powers of a counsellor. He may put together the circumstances of an imputed crime in the most able, artful, and ingenious manner, without the slightest vehemence or passion. We have no objection to this, if any counter statement were permitted. We want only fair play. Speech for both sides, or speech for none. The first would be the wiser system; but the second would be clear from the intolerable cruelty of the present. We see no harm that would ensue if both advocates were to follow their own plan without restraint. But if the feelings are to be excluded in all causes of this nature (which seems very absurd), then let the same restraint be exacted from both sides. It might very soon be established as the etiquette of the Bar, that the pleadings on both sides were expected to be calm, and to consist of reasoning upon the facts. In high treason, where the partiality of the judge, and power of the court is suspected, this absurd incapacity of be-

ing heard by counsel is removed. Nobody pretends to say, in such cases, that the judge would be counsel for the prisoner; and yet, how many thousand cases are there in a free country which have nothing to do with high treason, and where the spirit of party, unknown to himself, may get possession of a judge? Suppose any trial for murder to have taken place in the Manchester riots,—will any man say that the conduct of many judges on such a question ought not to have been watched with the most jealous circumspection? Would any prisoner—would any fair mediator between the prisoner and the public, be satisfied at such a period with the axiom, that the judge is counsel for the prisoner? We are not saying that there is no judge who might not be so trusted, but that all judges are not, at all times, to be so intrusted. We are not saying that any judge would wilfully do wrong; but that many might be led to do wrong, by passions and prejudices of which they were unconscious; and that the real safeguard to the prisoner, the best, the only safeguard, is full liberty of speech for the counsel he has employed.

What would be the discipline of that hospital, where medical assistance was allowed in all trifling complaints, and withheld in every case of real danger? where Bailey and Halford were lavished upon stomach-aches, and refused in typhus fever? where the dying patient beheld the greatest skill employed upon trifling evils of others, and was told, because his was a case of life and death, that the cook or the nurse was to be his physician?

Suppose so intolerable an abuse (as the Attorney and Solicitor-General would term it) had been established, and that a law for its correction was now first proposed, entitled, an *Act to prevent the Counsel for Prisoners from being heard in their defence!!!*

What evil would result from allowing counsel to be heard in defence of prisoners? Would too many people be hung from losing that valuable counsellor, the Judge? or would too few people be hung? or would things remain much as they are at present? We never could get the admirers of this practice to inform us what the results would be of deviating from it; and we are the more particularly curious upon this point, because *our* practice is decidedly the reverse, and we find no other results from it than a fair administration of criminal justice. In all criminal cases that require the intervention of a jury in Scotland, a prisoner must have a copy of the indictment, which must contain a minute specification of the offence charged; *2dly*, a list of witnesses; *3d*, a list of the assize; and, *4th*, in every question that occurs, and in all addresses to the jury,

the prisoner's counsel has the last word. Where is the boasted mercy of the English law after this?

The truth is, it proceeds from the error which, in all dark ages, pervades all codes of laws, of confounding the accused with the guilty. In the early part of our State trials, the prisoners were not allowed to bring evidence against the witnesses of the Crown. For a long period after this, the witnesses of the prisoner were not suffered to be examined upon oath. One piece of cruelty and folly has given way after another. Each has been defended by the Attorney and Solicitor-General for the time, as absolutely necessary to the existence of the state, and the most perfect performance of our illustrious ancestors. The last grand hope of every foolish person is the silence of the prisoner's counsel. In the defence of this, it will be seen what stupidity driven to despair can achieve. We beg pardon for this digression: but flesh and blood cannot endure the nonsense of lawyers upon this subject.

The Society have some very proper remarks upon the religious instructions of the chaplain—an appointment of vast importance and utility; unfortunately very ill paid, and devolving entirely upon the lower clergy. It is said that the present Bishop of Gloucester, Dr Ryder, goes into jails, and busies himself with the temporal wretchedness and the eternal welfare of the prisoners. If this is so, it does him great honour, and is a noble example to all ranks of clergy who are subject to him. Above all, do not let us omit the following beautiful anecdote, while we are talking of good and pious men.

'The Committee cannot refrain from extracting from the Report of the Paris Society, the interesting anecdote of the excellent Père Joussony, who being sent, by the Consul at Algiers, to minister to the slaves, fixed his residence in their prison; and, during a period of thirty years, never quitted his post. Being compelled to repair to France, for a short period, he returned again to the prison, and at length resigned his breath in the midst of those for whose interests he had laboured, and who were dearer to him than life.'—*Report*, p. 30.

It seems to be a very necessary part of the prison system, that any poor person, when acquitted, should be passed to his parish; and that all who are acquitted should be *immediately* liberated. At present, a prisoner, after acquittal, is not liberated till the Grand Jury are dismissed, in case (as it is said) any more bills should be preferred against him. This is really a considerable hardship; and we do not see, upon the same principle, why the prisoner may not be detained for another assize. To justify such a practice, notice should, at all events, be given to the jailor of intention to prefer other charges against him. To detain a

man who is acquitted of all of which he has been accused, and who is accused of nothing more, merely because he *may be accused of something more*, seems to be a great perversion of justice. The greatest of all prison improvements, however, would be, the delivery of jails four times in the year. It would save expense; render justice more terrible, by rendering it more prompt; facilitate classification, by lessening numbers; keep constantly alive, in the minds of wicked men, the dread of the law; and diminish the unjust sufferings of those who, after long imprisonment, are found innocent.

‘From documents,’ says Mr Western, ‘upon the table of the House of Commons in 1819, I drew out an account, which I have already adverted to in part, but which I shall restate here, as it places, in a strong point of view, the extent of injustice, and inconsistency too, arising out of the present system. It appeared, that at the Maidstone Lent Assizes of that year, there were one hundred and seventy-seven prisoners for trial; of these, seventeen were in prison before the 1st of October, eighty-three before the 1st of January, the shortest period of confinement before trial being six months of the former, three months of the latter. Nothing can show us more plainly the injustice of such confinement, than the known fact of six months’ imprisonment being considered a sufficient punishment for half the felonies that are committed; but the case is stronger, when we consider the number acquitted; seventeen of the twenty-seven first mentioned were acquitted, nine of the seventeen were discharged, not being prosecuted, or having no bill found against them. On the other side it appeared, that twenty-five convicted felons were sentenced to six months’ imprisonment, or under, the longest period of whose confinement did not therefore exceed the shortest of the seventeen acquitted, or that of the nine, against whom no charge was adduced; there were three, who, after being about seven months in prison, were then discharged, whilst various convicted felons suffered six-sevenths only of the punishment, including the time before trial as well as after condemnation. By the returns from the Lent Assizes at Cholmsford, the same year, the cases were not less striking than those of Maidstone; the total number was one hundred and sixty-six, of these twenty-five were in prison before the 1st of October, of whom eleven were acquitted, and of these eleven, six were discharged without any indictment preferred; two were in prison eight months; three, seven months and fifteen days; three, six months and fifteen days. On the other hand, sixteen convicted of felony, were considered to be sufficiently punished by imprisonment under six months. Upon the whole, it appeared that four hundred and five persons had been in gaol before the first of October, whilst eight hundred convicted felons were sentenced to a lighter punishment, to a shorter duration of imprisonment, than these four hundred and five had actually undergone.

'It is a curious fact, that, upon an average, more than one third of the total number committed for trial are acquitted. In the seven years ending 1819, seventy-two thousand two hundred and sixteen persons were committed; of these, fourteen thousand two hundred and ninety-one were acquitted on trial, eleven thousand two hundred and seventy-four were discharged, there being no prosecutions, or no bills found against them. This large proportion of acquittals aggravates the evil and injustice of long confinement before trial; but were it otherwise, what possible right can we have to detain a man in custody six months, upon any charge exhibited against him, before he is brought to trial? What excuse or palliation can be found for so barbarous a violation of all the principles of justice and humanity? How contemptible it is, by way of defence, to talk of the expediency of increasing the number of the judges, the expense, inconvenience, trouble, &c.! It is wrong to contend with such arguments against the unanswerable claims of justice, as it is only to admit they are entitled to weight. The fact is, we are so completely under the influence of habitual respect for established practice, that we do not stop to question the possibility of the existence of any serious defects in the administration of the law that can be capable of remedy. The public attention has never been earnestly and steadily fixed and devoted to the attainment of a better system.'—*Western*, pp. 80–83.

The public cannot be too grateful to Mr Western for his labours on this subject. We strongly recommend his Tract for general circulation. It is full of stout good sense, without one particle of nonsense or fanaticism;—good English stuff, of the most improved and best sort. Lord Londonderry has assented to the measure; and his assent does him and the Government very great credit. It is a measure of first-rate importance. The multiplicity of imprisonments is truly awful.

Within the distance of ten miles round London, thirty-one fairs are annually held, which continue eighty days within the space of seven months. The effect of these fairs in filling the prisons of the metropolis, it is easy to imagine; and the topic is very wisely and properly brought forward by the Society.

Nothing can be so absurd as the reasoning used about *flash houses*. They are suffered to exist, it seems, because it is easy to the officers of justice to find, in such places, the prisoners of whom they are in search! But the very place where the thief is found, is most probably the place which made him a thief. If it facilitates the search, it creates the necessity for searching, and multiplies guilt while it promotes detection. Wherever thieves are known to haunt, that place should be instantly purged of thieves.

We have pushed this article to a length which will prevent us from dwelling upon that part of the plan of the prison Society which embraces the reformation of juvenile delinquents,

of whom, it is calculated, there are not less than 8000 in London who gain their livelihood by thieving. To this subject we may perhaps refer in some future Number. We must content ourselves at present with a glimpse at the youthful criminals of the metropolis.

“ Upon a late occasion (in company with Mr Samuel Hoare, the Chairman of the Society for the Reform of Juvenile Delinquents), I visited about midnight many of those receptacles of thieves which abound in this metropolis. We selected the night of that day in which an execution had taken place; and our object was, to ascertain whether that terrible demonstration of rigour could operate even a short suspension of iniquity, and keep for a single night the votaries of crime from their accustomed orgies. In one room, I recollect, we found a large number of children of both sexes, the oldest under eighteen years of age, and in the centre of these a man who had been described to me by the Police as one of the largest sellers of forged Bank-notes. At another part, we were shown a number of buildings, into which only children were allowed to enter, and in which, if you could obtain admission, which you cannot, you would see scenes of the most flagrant, the most public, and the most shocking debauchery. Have I not, then, a right to say, that you are growing crimes at a terrible rate, and producing those miscreants who are to disturb the public peace, plunder the public property, and to become the scourge and the disgrace of the country?—*Buxton*, pp. 66, 67.

Houses dedicated to the debauchery of children, where it is impossible to enter!!! Whence comes this impossibility?

To show that their labours are not needlessly continued, the Society make the following statement of the present state of prisons.

‘ But although these considerations are highly encouraging, there is yet much to accomplish in this work of national improvement. So extensive are the defects of classification, that in thirty gaols, constructed for the confinement of 2985 persons, there were, at one time in the last year, no fewer than 5837 prisoners; and the whole number imprisoned in those gaols, during that period, amounted to 26,703. There are yet prisons where idleness and its attendant evils reign unrestrained—where the sexes are not separated—where all distinctions of crime are confounded—where few can enter, if uncorrupted, without pollution; and, if guilty, without incurring deeper stains of criminality.—There are yet prisons which receive not the pious visits of a Christian minister—which the light of knowledge never enters—and where the truths and consolations of the Gospel are never heard.—There are yet prisons where, for the security of the prisoners, measures are resorted to as revolting to British feeling as they are repugnant to the spirit and letter of English law.’—*Report*, pp. 63, 64.

With this statement we take our leave of the subject of prisons, thoroughly convinced that, since the days of their cleanliness and salubrity, they have been so managed as to become the great school for crimes and wretchedness; and that the public, though beginning to awake, are not yet sufficiently aware of this fact, and sufficiently alarmed at it. Mrs Fry is an amiable excellent woman, and ten thousand times better than the infamous neglect that preceded her; but her's is not the method to stop crimes. In prisons which are really meant to keep the multitude in order, and to be a terror to evil doers, there must be no sharing of profits—no visiting of friends—no education but religious education—no freedom of diet—no weavers' looms or carpenters' benches. There must be a great deal of solitude; coarse food; a dress of shame; hard, incessant, irksome, eternal labour; a planned and regulated and unrelenting exclusion of happiness and comfort. *

ART. IV. *Remarks upon the last Session of Parliament.* By a NEAR OBSERVER. London. Ridgeway, 1822.

IT was long ago remarked by Mr Burke in, perhaps, his best, certainly his most faultless work, that 'where popular discontents have been very prevalent, there has been generally something amiss in the Constitution, or in the conduct of the Government.'† The universal dissatisfaction with their rulers, which the people of this country for some years past have displayed,—and which has, if not alienated their affections from the system of the Constitution, at least weakened their ancient attachment to it,—while it furnishes a new illustration of this truth, is calculated to awaken very gloomy apprehensions for the future fate of the Monarchy. Nor can any more acceptable service be rendered to the cause of good order, and to the stability of all that deserves to be perpetuated in the frame of our polity, than they offer who show, that the mischiefs so much complained of, and, we fear, so much more deeply than loudly deplored, belong to the abuses of the system, and are not essential to its nature;—that though there may be 'something amiss in the constitution,' it has crept into it through neglect; and that the ills we endure proceed rather from *the conduct* of 'the Govern-

* All this, of course, applies to prisoners after conviction. Before trial, they should experience every possible indulgence compatible with their detention and with good morals.

† *Thoughts on the Causes of the Present Discontents, &c. Works,* ii. 224.

ment' than from the fundamental principles on which it rests. The able and instructive Tract now before us, is full of matter which has this wholesome tendency. But, before calling the attention of the reader to its contents, we must take a somewhat more general view of the aspect of the national concerns, in order to ascertain whether or not there be, in reality, as little occasion of despondency and discontent, as the official supporters of the Government, and their literary agents, are fond of asserting; and to examine the grounds upon which these candid and disinterested persons impute the distrust and vexation of the people to an entire ignorance of their real situation—a disregard to their true interests—and a silly passion for being duped by factious demagogues. According to these high and impartial authorities, the country is, if not as well off as can be imagined, at least as well as could have been expected, after the late war; and the inhabitants have nothing to complain of, but the arts of those who are making them dissatisfied with their condition. The nature of Englishmen, it seems, is become such, that they can no longer judge for themselves when they are burthened, and when at their ease. They must wait till some speaker, or some writer, expounds the matter to them; and then they decide,—not upon what they know and feel of their own situation, but upon the stories which those adepts tell them, and the fancies which they stir up. A few plain statements, will, probably, suffice to show, that the sufferings of the patient warrant the description of the physician; and that, whatever difference there may be in the opinions entertained of the cure, there can be none as to the existence and pressure of the malady—and hardly any as to its origin.

When we estimate the burthens that press upon the empire, with a reference to the persons who bear them, we must confine our attention to the inhabitants of these Islands. Very few of our colonies pay the charges of governing and defending them; and in the aggregate, they are undoubtedly a considerable expense directly, and the less immediate source of a prodigious cost. They contribute nothing directly to the revenues of the State; and, in augmenting the fund out of which that revenue is raised, they only differ from our foreign customers—from any country round the Baltic or the Mediterranean, for example—inasmuch as a small number of colonial proprietors reside in the mother country, and pay taxes out of their colonial income. The enormous expenses of the late wars were therefore borne by the people of *England and Ireland*; but in very unequal proportions,—the wealthier, though comparatively less populous Island, bearing by far the larger share. For some years, the sums raised by

taxes of all kinds, from the whole country, exceeded ninety-four millions annually, allowing only five millions for parish and county rates; and, exclusively of those local burthens, we may take the sum yearly paid by thirteen or fourteen millions of people in Great Britain, at very near seventy-eight millions Sterling, while between six and seven more were paid by about half the number of our fellow-subjects in Ireland. If France were taxed equally with England in proportion to her population, the publick revenue would considerably exceed 160 millions,—whereas it has never exceeded forty;—and that of the United States of America never reached three and a half, except during the short war, though their population does not now fall one-third below our own. We grant that these are very vague and imperfect approximations to a comparison of the pressure felt in these countries; because the wealth is different in them all, and that portion of price which is affected by the value of money, varies in them all materially; but we wish to illustrate the peculiar situation in which the war placed this country, and the unnatural disproportion between the national and the private resources of the people. If, then, it affords but a dim light to state, that there was raised at the rate of nearly six pounds a head from all persons, of all classes and ages, or nearly thirty pounds a year from every family rich and poor, upon an average, let us look to income as a surer test. But, first of all, let us more particularly advert to the gross amount of the expenditure.

The enormous sums which we have mentioned above were actually raised by taxes during three years—1813, 1814, and 1815. The average for Great Britain in these years was seventy-eight millions, with eight millions parochial and county rates, of which it is a very large allowance, indeed, to suppose that three millions were for payment of wages;—and the average of the Irish taxes was 6½ millions. In one year, 1815, no less than 93½ millions were thus raised. But we shall confine the statement to this Island; and if we take the seven last years of the war, with the year 1816, when its costs may be said to have ended, we shall find the average sum yearly raised by taxes, and by such portion of parish rates as are strictly taxes, very near seventy-seven millions. Now, what proportion did this bear to the income of the inhabitants? Perhaps it might be more accurately asked, what proportion the income bears to this drain; for, continued so long, it seems as if it must have encroached upon the capital. In attempting to estimate the yearly produce of land, capital and labour, the only guide we have is the Property-tax. In 1815, that intolerable burthen, having reached its utmost amount, raised upwards of

14½ millions, of which nearly 5½ were paid by landlords, and above 2½ by occupiers; whence we may infer, that the income of the former was about fifty-five millions, and of the latter twenty-eight—but adding eight and four * respectively for the incomes below 60*l.*, we have the whole income arising from land, ninety-five millions. Nor is it probable that the clear taxable income was nearly equal to this; for the farmers could not, generally speaking, pay their proportion; they threw it upon their landlords; and all were agreed that the method of estimating the gains of the tenants was erroneous. It was clear, too, as soon as the cruel machinery of the tax had attained perfection, that hardly any property escaped. Now, if the rental of a country be any criterion of its capacity to undergo taxation, we have here the means of judging how far that of the times in question was bearable. Of the actual occupiers of land, by far the largest portion are those paying rent. Except in the northern counties of England, no considerable number of yeomanry are now to be found cultivating their own land; and we shall probably exceed the truth, if we add seven millions to the landlord's income, for persons of this description. This will make the whole rental of Great Britain seventy millions in the years under consideration, when there were raised in taxes seventy-seven millions; so that the publick income exceeded, by a tenth, the whole rental of the country; and did not fall much more than a sixth below the whole income derived from the land in every manner of way,—a state of things, we will venture to say, as unnatural as can well be imagined.

But let the comparison be pursued with respect to the whole income of the people. From trades, manufactures, and professions, were raised a little more than three millions,—thirty-seven was the estimated amount of the income; and about three millions a year was the amount of returns below 60*l.* If, however, instead of forty we put fifty millions for the whole, in consideration of the concealments practised by this class, we shall be more near the truth. This, with the incomes from office, would make the whole income of the people about 155 millions, exclusive of those who only receive annuities for money formerly lent to the Government. It may perhaps admit of some doubt, how far official income ought to enter into this statement; but there can be no hesitation in rejecting income from the funds, provided we deduct from the taxes the produce of the direct impost upon that income. The balance of the account will then stand thus—

* 3,825,000*l.* is the amount returned in 1812, as under the taxable sum in the occupiers' class.

that for the eight years in question, about seventy-seven millions were raised by taxes, out of a total income from all sources, of 155 millions; or that *one half the income of the whole country*, derived from the produce of its land, its capital, or its labours, was wrung from it in order to support *the expenses of the Government and the war*. In this estimate, we have not made any allowance for the income immediately derived from labour, in the form of wages to workmen, because these never pay any tax, except in the moment of its being imposed, or a very short time afterwards. The value which they create or add becomes taxable in other hands as income; but the articles, in the purchase of which the wages are bestowed, belonging to the class of necessities, any tax imposed on such articles must be ultimately paid by the capital which sets the labour in motion.

If, from the manner of raising the revenue, we turn to the mode of expending it, the first thing that strikes us is its deficiency, and, vast as it has been, its total inadequacy to meet the demands upon it. The expense of governing and defending the United Kingdom in one year, 1814, reached the unheard of, and perfectly intolerable amount, of 137½ millions; the average cost of three years, 1813, 1814 and 1815, was above 132 millions. If we include only 5 of the 8 millions of rates levied yearly, the cost of 1814 was 142, and the average cost of the three years 137; but, taking only the public expenditure, it exceeded, in two years, the whole amount of the national debt contracted from the Revolution to the beginning of the late war, by more than the whole current charges of those two years. Again, taking all the expenses, local and general, at both periods, for two years at the beginning of the war, and two years at its close, those amounted, in 1813 and 1814, to above 278 millions. In an equal period before the war, they did not exceed 40 millions, including Ireland and the parish rates; leaving a difference of above 238 millions, or more than the whole amount of the national debt at that time. Even if we take the longer period of eight years, to which our estimates of the income and revenue referred, we find that the average yearly expense was above 117 millions, including Ireland and the parochial expenditure; and exclusive of those heads, 104 millions; so that the clear addition made to our debt, by the excess of our extravagance above even our enormous means in those concluding years of the war, was such as to add more than 240 millions to the debt, and to entail upon the people a perpetual burthen of nearly thrice as much as the whole costs of the government (exclusive of the debt) had amounted to when the war began.

It is a very common fallacy, in reasoning upon the effects of

excessive taxation, to say that the money raised in this way returns to the people in another shape, by means of the publick expenditure; and we are very far from asserting, that a given sum raised and spent *abroad* by the State, would not be still more injurious to the resources of the people than the same sum spent at home. But, nevertheless, the notion that such a process does not exhaust the national wealth, in whatever manner it is carried on—that the amount, or any thing like the amount of taxes spent at home, finds its way back into the pockets from which it was taken, is as false as it is paradoxical; and if its apparent absurdity strikes us at first sight, a closer inspection only serves to set that absurdity in a stronger light, and to disclose more fully the mischievous conclusion indirectly deduced,—that the pressure of taxation can never be very heavy, nor its amount very material. That the money spent by Government at home in part returns to the people, is easily admitted; indeed this is true, not of part, but of the whole. But we use *people* in a different sense when we speak of the taxes raised to furnish that money; it is in truth taken from one class and paid to another; taken from the people at large to the injury of their income, and, if pushed far, of their capital, and paid to a comparatively small body, who are in the employ of the Government. But these (it may be said) deal with the community at large; and so does the Government in its contracts. Undoubtedly they do; but if the money had remained where it originally was, an expenditure to exactly the same amount would have taken place, with a most material difference in the manner and in the result. The money would have been spent economically, and the labour which it would have called into action would have produced a constant and permanent augmentation of the capital of the country, and, with the capital of its annual revenue, or of the sum yearly to be expended in putting more labour in motion for a like beneficial purpose. Suppose, for example, that of the 81 millions raised by taxation in Great Britain in 1815, there were 26 millions expended, in consequence of the war, and the mere needless extravagance with which our affairs were conducted; and that the whole of this, the excess of our establishment over that of 1820, was spent at home, not one farthing of it remained at the end of the year for which it was wanted, unless in the shape of old stores, accoutrements and barracks. The whole of it had gone to purchase the labour of soldiers, sailors, and clerks in office, who had left nothing behind which could the year after employ any one else. It is true, that their consumption had occasioned a demand for produce and for manufactures; but if those 26 millions which supported them

had never been levied by taxation, no man supposes they would have been hoarded; each person who contributed his portion to the mass, would have employed the greater part of it, and the bulk of the contributors would have employed the whole of their portions in some profitable channel. Thus the landlord, or he to whom he lent his savings, would have invested his share of the taxes in some farming speculation, which would have created a demand for manufacturing as well as agricultural labour; and the manufacturer, in like manner, would have extended his business, or struck into some new channel, occasioning a demand both for the produce of the neighbouring farms, and the labour of more artisans. Or, the landlord would have paid off part of the debt upon his estate, and his mortgagee would have employed his capital in aiding other landlords or traders, the money still calling forth productive labour. Thus, at the end of the year, the greater part of 26 millions would have been added to the agricultural or commercial capital of the country; and the greater part of the profits would, in like manner, the next year, have still further increased the national income, and immediately afterwards the national capital.

Let us take, now, the instance of a single direct tax, although the argument applies to all the publick burthens; and it shall be the Income, or, as it was very inaccurately termed, the Property-tax. In the eight years to which we have already more than once referred, there were raised, by this means, above 107 millions; of which about 55 were paid by the owners and occupiers of land. No man can doubt that this sum, judiciously applied, would have produced a very great benefit to those proprietors. Many of the improvements which, for want of it, have not been effected, would have been accomplished; others, which have been paid for with borrowed money, would have been completed without incurring any debt. By degrees, debts now become overwhelming, would have been paid off; and the interest which has been accumulating would have been diminished. A gift of 55 millions to the landed interest now, would be a boon too great to be dreamt of. Their distresses would be supposed at an end; at all events, they would be greatly alleviated, even under the pressure of other evils which the extravagance and impolicy complained of have produced; yet such a gift now would bear no comparison, in beneficial effects, with the leaving an equal sum by its different yearly instalments, to improve in the hands of the owners at compound interest, and prevent them from getting into embarrassments, or enable them to relieve their estates from those left by their ancestors. Again, suppose the case of an individual paying

this tax and the assessed taxes; or the tenant's tax falling on him, his income being 10,000*l.* a year, the interest of his debts 3000*l.*, and his payments to those two imposts 1500*l.*, from which 150*l.* may be deducted on account of the debts,—a sinking fund of 1350*l.* would have disincumbered him during the eight years in question of above 14,000*l.* of his debts, and of nearly 20,000*l.* since 1806. What then would be the state of the case, if we take into the account all the other burthens imposed upon him by the same fatal course of impolicy? Supposing only a fourth part of his income to be taken by the war-taxes; the accumulation of this portion, or the progress which it would enable him yearly to make in paying off incumbrances, with the fall in the interest of money from the general increase of capital, would assuredly leave him with hardly any debt at all.

If any one still persists in the idea, that so the money be spent in the country, it matters little how it is taken from the people; we would wish to ask him, whether the same argument does not apply to the case of each individual, and must not be true of every especial one, if it is true of the aggregate? Now, though certainly a rich man's neighbourhood, and, through them, his own property, is injured by his rents being drawn to a distance and there spent; and though, conversely, his residence on the estate, and spending his rents there, benefits the neighbouring country, and his own land reaps its proportion of the advantage; yet we presume no one will contend that it is a matter of indifference to this owner, *who* draws his rents, provided they be spent on the spot! that it signifies nothing to him whether he receives the whole, or is only allowed one half, provided the other half is expended among his tenants and the neighbouring shopkeepers and artisans; and that he has no right to complain if Government appoints a receiver to the extent of that moiety, so as the worthy functionary comes with a suitable staff of clerks, and a body guard, and a due proportion of livery servants, all of whom are to be maintained out of the allotted portion of the rents, and to make that portion circulate in the same parish from whence it was drawn. The absurdity of this strikes every one as soon as it is stated; and yet it is in no respect different from the position against which we are contending; except that we are using it in argument, and the other doctrine has been actually employed to persuade the sufferer himself. It has been addressed to the persons groaning under the burthen; it has been constantly in the mouth of the functionary; it has been urged by him to the unhappy proprietor, to sooth him, while in the act of losing half his rents. "Never you mind

‘ (has been the language used), it is all for your good—you are only giving up this half to secure the rest. But in fact you are giving up nothing; for the money being all spent upon the spot, it returns to you in another shape;”—together with other kindred topics, and much simile, touching exhalations, dew, and rain.

But we have been admitting, for argument's sake, that the expenditure takes place at home. A portion of it undoubtedly is so: a portion of the extraordinary expenses of the war, as well as nearly the whole of the peace expenditure—and we may go so far as to allow, that, in most wars, even a large proportion of that extraordinary expense is incurred within the country. But in all wars, a considerable part of it, and in the late unprecedented contest, a very large part, was incurred abroad. Now, surely, even the reasoners with whom we have been contending will not affect to doubt, that money raised from the people here to be sent abroad, and either spent by our troops there, or given in the shape of subsidies, or lent as loans—which experience shows are equivalent to gifts, the borrower always forgetting to repay them—must operate as a direct drain on our resources, in exact proportion to the sums raised, and without any chance of return by any material reaction upon our capital and industry, or, as the phrase is, ‘ finding its way back again.’ We are not speaking now of the money spent in purchase of stores at home, which stores are to be wastefully consumed abroad; this falls within the scope of the preceding observations; for it signifies but very little whether the consumption takes place at home or abroad, so long as it only supports absolutely unproductive labour. But we are adverting to the sums transmitted to subsidize foreign powers, and to pay and support our own troops, and foreign troops in our service, while they are abroad, and generally to provide for all the reckless and most prodigal expense of actual warfare. By far the greater part of this money is expended in the purchase of raw produce and labour, and other things furnished on the spot; and the utmost effect that can, by such expenditure, be produced upon our own markets of produce and manufacture, is far more than counterbalanced by the ruinous effects of the operations which the money is used to support. The war must immediately, and still more effectually in its consequences, injure those countries, as our customers, to a much greater extent than the expenditure of our capital there can stimulate them to aid our domestic industry. The same short-sighted reasoners, who see so little mischief in the expenditure of a large revenue at home, are ignorantly prone to admit that *all* is clear loss which is spent abroad. There is a

difference between the two operations. With certain restrictions, to which we have just referred, the revenue which is spent abroad must be allowed to be the most exhausting to our resources.

To estimate the proportion of the war expenditure which takes place abroad with any minute accuracy, is manifestly impossible. But we have *data* whereby some approximation may be made to this result. In the *first* place, we know, that, of the Army Extraordinaries during war, by far the greater part was foreign expenditure. From 1807 to the end of the war, these amounted to about 90 millions; from which we may deduct the Extraordinaries for ten years of peace, which would leave 70 millions. Next, a large part of the military force being abroad during the same period, we must allow a similar proportion of the Ordinary expenses of the army to have been incurred abroad. The entire expenses of the army and ordnance reached so high, in one year, as 38½ millions; and they averaged about 26 millions during the whole of the above ten years. Deducting from this the sum of 90, for extraordinaries, already reckoned, we have 170 millions as the ordinary charge of the army. The numerical strength was about 260,000 regular forces of all descriptions, during a great part of the time; exceeding the establishment of 1820 by about 100,000; to which excess the sum of 65 millions in the whole ordinary charge is proportional, and may, perhaps, safely be taken as the amount expended abroad, beside extraordinaries. To these sums must be added the loans and subsidies, which, for the ten years under consideration, amounted to no less a sum than 50 millions; the whole loans and subsidies from 1793 having been almost 67 millions.

We have thus the sum of 185 millions as the mass of the foreign expenditure during the concluding period of the war. Nor ought its enormous amount to make us question it. Positive evidence is before the country, stating the expenditure for some years in its details; and these support our estimate. Thus it appears, by the returns of the bills drawn in 1814 from all parts abroad, upon the Paymaster of the Forces, that those draughts amounted to 19 millions, after giving credit for bills remitted; and the whole sum, including subsidies which passed that year to foreign parts through the same department, was about 25 millions. No less than 30,000*l.* were paid in premiums to naval officers for the transport of specie; and there were 130 voyages required for the purpose of carrying it. It should also be remembered, that we have allowed nothing for the foreign expenditure of the Navy, which must have been considerable, although by no means in the same proportion to its whole cost with that of the army. A.

capital approaching to 200 millions, or *nearly four entire years' rental of the land of the whole island*, has thus been sent abroad in ten years. A sum exceeding one-third of that rental has been every year carried out to pay for the labour and the goods of foreigners, to be consumed upon the spot without any equivalent; and in subsidies alone to their governments, a sum equal to one whole year's rental, has been transported, and sunk for ever in their coffers, or used to impoverish their subjects by war.

We shall close these remarks by presenting, in the form of Tables, the details of the question. It is of great importance to perceive the truth of statements in detail, which, from the enormous amount of the aggregate sums, the imagination, being staggered, is apt to reject; and we are both anxious to show, that, when speaking above in round numbers, we have not been talking at random; and desirous that our readers may possess a convenient repertory of those facts respecting our recent financial history, which will assuredly be more frequently referred to now than they have been for some years past: Because the distresses of the country,—perhaps we should rather say, of a portion of the country,—have at length opened the eyes of the landed interest to the necessity of looking more narrowly into the state of our affairs.

The First Table exhibits a general statement of the Amount of the Revenue and Expenditure of Great Britain, for the fifteen years from 1806 to 1820, both inclusive. But under the expenditure for the four last of those years, that of Ireland is comprehended.

TABLE I.—INCOME and EXPENDITURE of GREAT BRITAIN, including the charge on account of the Sinking Fund, for Fifteen Years ending 1820.

	1806.	1807.	1808.	1809.
Total Revenue, * exclusive of Loans, }	55,346,000	61,135,000	64,442,000	66,432,000
Loans, }	19,699,000	15,257,000	10,102,000	14,675,000
Total Expenditure, Whereof,	72,778,000	75,670,000	79,591,000	84,977,000
{ Subsidies and	—	—	3,989,000	1,250,000
{ Loans to Ireland,	1,768,000	3,681,000	2,589,000	2,921,000

* The Revenue in this Table includes charges of Management, but not the Allowances, Drawbacks, and Repayments. It means all that is raised from the people; and some of the head of Allowances, &c. might have been added, particularly about 200,000*l.* a year for Stamps, and some trifling allowances to the Universities.

TABLE I.—INCOME and EXPENDITURE of GREAT BRITAIN, for Fifteen Years ending 1820—Continued.

	1810.	1811.	1812.	1813.
Total Revenue, exclusive of Loans, }	70,156,000	68,216,000	67,708,000	75,563,000
Loans, }	13,212,000	16,656,000	29,268,000	57,000,000
Total Expenditure, Whereof, }	85,196,000	91,418,000	100,496,000	118,726,000
{ Subsidies and }	2,059,000	2,977,000	5,515,000	11,294,000
{ Loans to Ireland, }	5,294,000	4,432,000	2,888,000	4,700,000

	1814.	1815.	1816.	1817.
Total Revenue, exclusive of Loans, }	76,824,000	81,233,000	67,997,000	55,257,000
Loans, }	36,078,000	59,421,000	8,599,000	—
Total Expenditure, Whereof, }	126,569,000	110,143,000	82,769,000	—
{ Subsidies and }	10,024,000	11,035,000	1,731,000	68,710,000
{ Loans to Ireland, }	8,725,000	7,277,000	2,581,000	United Kingdom.

	1818.	1819.	1820.	
Total Revenue, exclusive of Loans, }	55,757,000	52,965,000	55,115,000	
Loans, }	10,850,000	18,756,000	17,292,000	
Total Expenditure, U. K. }	68,821,000	69,448,000	70,550,000	
		U. K.	U. K.	

The next Table exhibits the Revenue and Expenditure of Ireland for the same years, in like manner; but deducting, from the expenditure of each year, the portion which was raised in, and remitted from England by way of loan to Ireland, and which is included in the first Table.

TABLE II.—INCOME and EXPENDITURE of IRELAND, for Fifteen Years ending 1820.

	1806.	1807.	1808.	1809.
Total Revenue, exclusive of Loans, }	4,585,000	5,552,000	5,369,000	5,455,000
Loans, }	4,359,000	2,977,000	5,689,000	4,261,000
Total Expenditure, Expenditure, afterdeducting Loans from England, }	8,537,000	8,566,000	9,536,000	9,874,000
	6,769,000	4,885,000	6,949,000	6,953,000

TABLE II.—INCOME and EXPENDITURE of IRELAND, for Fifteen Years ending 1820—Continued.

	1810.	1811.	1812.	1813.
Total Revenue, exclusive of Loans, }	4,659,000	5,403,000	6,099,000	6,382,000
Loans,	5,653,000	3,127,000	4,196,000	7,575,000
Total Expenditure, }	10,855,000	11,560,000	12,776,000	13,598,000
Expenditure, after deducting Loans from England, }	5,559,000	6,928,000	9,888,000	8,698,000

	1814.	1815.	1816.	1817.
Total Revenue, exclusive of Loans, }	6,902,000	7,161,000	5,912,000	5,520,000
Loans,	7,757,000	11,091,000	2,759,000	*
Total Expenditure, }	15,160,000	19,796,000	14,612,000	
Expenditure, after deducting Loans from England, }	6,437,000	12,519,000	12,031,000	

	1818.	1819.	1820.	
Total Revenue, exclusive of Loans, }	5,654,000	5,325,000	4,744,000	
Loans,	—	—	—	
Total Expenditure, }	—	—	—	
Expenditure, after deducting Loans from England, }	—	—	—	

The third Table exhibits in one view, the Grand Totals of the Income and Expenditure, and Debts contracted, of the United Kingdom, for the same years. In this, as in the other two Tables, the revenue given is the gross receipt within the year, without deducting charges of management, which have amounted to between four and five millions in one year; and bestowed upon the Crown a patronage in proportion to this vast income.

* The expenditure, after the consolidation of the two Exchequers, is included in Table I.

TABLE III.—INCOME and EXPENDITURE of the UNITED KINGDOM for Fifteen Years ending 1820.

Years.	Revenue Exclu- sive of Loans.	Loans.	Expenditure, in- cluding the Sunk- ing Fund.	Charges of Ma- nagement in- cluded in Ex- penditure.
1806.	59,931,000	24,038,000	82,377,000	2,850,000
1807.	66,487,000	18,254,000	83,782,000	3,227,000
1808.	69,811,000	15,791,000	89,802,000	3,462,000
1809.	71,887,000	18,956,000	95,604,000	3,674,000
1810.	71,815,000	18,895,000	94,566,000	3,811,000
1811.	73,621,000	19,765,000	102,340,000	3,991,000
1812.	73,707,000	33,461,000	114,552,000	4,168,000
1813.	81,745,000	42,575,000	131,825,000	4,101,000
1814.	83,726,000	43,815,000	137,348,000	4,312,000
1815.	88,394,000	50,512,000	127,554,000	4,702,000
1816.	73,909,000	11,698,000	99,593,000	4,794,000
1817.	58,757,000	—	75,061,000	4,351,000
1818.	59,391,000	10,850,000	73,221,000	4,105,000
1819.	58,288,000	18,756,000	73,697,000	4,249,000
1820.	59,812,000	17,292,000	74,986,000	4,156,000

The fourth of these Tables is intended to show the Revenue under its different heads; and the fifth, to show the Distribution of the Expenditure in like manner,—but confining the detail in each to the principal heads; in the one, to the great sources of revenue; in the other, to the great drains of expense; and the Charges of the Debt are given in a separate column.

TABLE IV.—PRINCIPAL BRANCHES of the REVENUE of GREAT BRITAIN for Nine Years, and of IRELAND for Four Years, ending 1820.

	1812.	1813.	1814.	1815.	1816.
Excise, . . .	25,533,000	25,272,000	26,477,000	27,790,000	24,272,000
Customs, . . .	11,292,000	11,986,000	12,836,000	12,077,000	10,174,000
Stamps, . . .	5,274,000	5,474,000	5,778,000	6,046,000	6,078,000
Land & Assessed Taxes, . . .	7,444,000	7,884,000	7,979,000	7,716,000	7,547,000
Post Office, . . .	1,820,000	2,080,000	2,080,000	2,116,000	2,002,000
Property, . . .	15,131,000	14,492,000	14,492,000	14,681,000	11,617,000

	1817.	1818.	1819.	1820.
Excise, . . .	21,055,000	24,278,000	24,334,000	27,722,000
Customs, . . .	11,765,000	11,536,000	10,787,000	10,264,000
Stamps, . . .	6,506,000	6,567,000	6,579,000	6,315,000
Land & Assessed Taxes, . . .	7,821,000	7,895,000	7,812,000	7,849,000
Post Office, . . .	1,914,000	1,961,000	1,952,000	1,891,000
Property, . . .	2,089,000	401,000	—	45,000

TABLE IV.—PRINCIPAL BRANCHES of the REVENUE of GREAT BRITAIN for Nine Years, and of IRELAND for Four Years, ending 1820—Continued.

	1817.	1818.	1819.	1820.
Excise, .	2,006,000	2,133,000	1,979,000	1,900,000
Customs, .	2,028,000	2,125,000	2,054,000	1,731,000
Stamps, .	566,000	560,000	520,000	451,000
Post Office, .	178,000	177,000	170,000	173,000
Taxes, .	524,000	597,000	560,000	535,000

[↗ See Table V. opposite page.]

That the enormous sums which we have been contemplating—sums which startle the most credulous reader, and, indeed, set the imagination at defiance—have been squandered with matchless profusion—with a most guilty carelessness in almost every department, there is no one so blinded by his love of the system as now to deny. The question for many years was, How can the war be carried on most universally; how can we most effectually fill every sea with our fleets, and vex every coast with our partial, unconnected, fruitless, but most costly descents; how can we take most foreigners, civil and military, into our pay; and most profusely buy the cooperation of all the powers of Europe, till we pay the charges of their government, as well as of our own? When the service was thought of, the money must be provided in the quickest manner possible, no matter upon what high terms of extravagant borrowing, or still more pernicious taxation. To economize the expenditure—to perform the service at the cheapest possible rate—or even to take any thought about how the money was spent,—never entered into the minds of our rulers. Their agents all over the world emulated them in this liberal view; and to watch such matters nicely, was, for many years, deemed the plain indication of a disaffected spirit. When the successors of by far the most lavish financier, and most unskilful and unsuccessful foreign minister that ever ruled any country, came to carry on the government, they finished the contest infinitely better than he had begun it, in many respects; and above all, wise by his experience, they saw the folly of his system of little useless expeditions, which, if successful, could bring no benefit, and, if disastrous, proved at once ruinous to our resources and our reputation. But if they avoided one of his errors, they rushed headlong into all his extravagance, and attained a pitch of wasteful profusion which would have astonished even their master, had he lived to witness the many wonders to which the severity of the seasons, and the folly of Napoleon, gave birth.

TABLE V.—EXPENDITURE of the UNITED KINGDOM in its Great Branches, for Fifteen Years ending 1820.

Years.	Civil Establish- ment.	Military Establish- ment.	Subsidies to Foreign Powers.	Expenses of the Debt and Sinking Fund.	Expenditure, exclu- sive of the Debt and Sinking Fund.	Total Expenditure.
1806.	9,120,000	39,753,000	—	33,502,000	48,875,000	82,377,000
1807.	8,080,000	40,282,000	—	35,420,000	48,362,000	83,782,000
1808.	5,628,000	43,897,000	3,989,000	36,258,000	53,514,000	89,802,000
1809.	10,237,000	46,244,000	1,250,000	37,873,000	57,731,000	95,604,000
1810.	6,453,000	46,709,000	2,059,000	39,345,000	55,221,000	94,566,000
1811.	6,833,000	51,635,000	2,977,000	40,885,000	61,443,000	102,340,000
1812.	12,572,000	53,461,000	5,315,000	43,204,000	71,348,000	114,552,000
1813.	14,843,000	58,544,000	11,294,000	47,144,000	84,681,000	131,825,000
1814.	14,736,000	63,687,000	10,024,000	48,901,000	88,447,000	137,348,000
1815.	20,277,000	45,655,000	11,035,000	50,397,000	76,967,000	127,564,000
1816.	15,900,000	27,732,000	1,731,000	54,230,000	45,363,000	99,593,000
1817.	10,516,000	17,522,000	—	46,023,000	27,038,000	73,061,000
1818.	9,930,000	16,445,000	—	46,849,000	26,375,000	73,224,000
1819.	9,067,000	17,383,000	—	47,247,000	26,450,000	73,697,000
1820.	9,352,000	16,714,000	—	48,920,000	26,066,000	74,986,000*

* To obtain the real expenditure, the amount of the Sinking Fund must be deducted from the sums in this column. Since 1817, when the Exchequers of Great Britain and Ireland were conjoined, the Sinking Fund has been as follows:—1817, 14,596,000*l.*; 1818, 15,815,000*l.*; 1819, 16,987,000*l.*; 1820, 16,596,675*l.*

It is not often that a nation continues long blind to such prodigal conduct in its rulers; but it is somewhat rare to find the spendthrifts themselves confessing their wastefulness. The Finance Committee of 1817, composed almost entirely of the members and adherents of the administration, have, in measured terms indeed, but abundantly significant, pronounced sentence upon the system. The part which is selected as fit to make an example of, is the Ordinance: 'Your Committee learn,' (says the third Report, p. 83.), 'that works, buildings, extensions, and repairs, have been undertaken and executed *both at home and abroad*, in a manner little checked or protected against *profusion and waste*,—in many cases without any estimate or general plan, and sometimes extended, (according to the statement of an officer of the Ordnance who attended the Committee), as views opened, during the progress of the work.' The reader will not fail to mark here the innocence of the surprise expressed by the Committee. Were none of its members in Parliament while such deeds of pillage were doing? Where were the boasted guardians of the public purse, the while? Were none of the Committee in office during those wasteful times? Were not some of them in the very department where such scenes must have been daily witnessed, till they perhaps ceased to be impressive, by becoming familiar? Yet they now, for the first time, in 1817, 'learn that works, &c. both at home and abroad,' &c. But they proceed with their lesson—'the irregular mode of proceeding which unfortunately prevailed during the time when all these large works were begun, has had the effect of *keeping the House in total ignorance* as to the ultimate charge for any one of them.' They then state, that in this exemplary manner, by the established practice of provident persons, and which is vulgarly termed throwing good money after bad, nearly ten millions had been squandered away on works which, had the national defence rested on them, would have been wholly inadequate to secure it; but, the Reporters add, that fortunately our defence did not require such precautions, and therefore the expenditure was utterly useless. This we take to be the plain meaning of the following passage:

'These various works were begun, and moderate sums were called for from year to year; the grant of every former session became a reason for granting more in the succeeding session, that the first sum might not be expended in vain, or the work left incomplete; and a large item of 'unprovided services' covered the difference between the annual estimate and the actual expenditure. The result has been the disbursement of 9,029,333*l.*, exclusive of various sums charged in "the Army Extraordinaries."

'There are (the Report concludes) prudential reasons which pre-

vent your Committee from pursuing an inquiry into the sufficiency or imperfection of particular parts of this *Home Defence*; but they should look at an inquiry of that nature with much greater anxiety, if they could conceive that the defence of the United Kingdom, either ought to rest, or was ever likely to depend materially, upon fortresses and garrisons.—*Third Report*, p. 86.

The members of the Committee, constituted as we shall presently see it was, can hardly be supposed to have learnt any thing very new in detail. But what an instructive lesson did they teach the House of Commons, and how forcibly ought their words to have roused that House to a sense of its neglected duties! Year after year had such extravagance been suffered to go on; its necessity for the salvation of the Empire being the daily theme, and the impossibility of either directing our resources more wisely, or performing the services more cheaply, being the constant answer that put down all objections, and stifled even a remark. Then come the very authors of the schemes, and their steady abettors; and plainly avow, that if the matter had been narrowly looked into, no man in his senses could have suffered the money to be spent, for it was just so much thrown away. Yet, if any one had offered it at the time, what would have been the reception of such an attempt? The very members of the Committee would have been the first and loudest to proclaim them enemies of their country, insinuate that they were sold to France, and to bear down, with that force of invective which the weight of a government always marvelously augments, the ‘cold calculating’ reasoners who could stop to reckon pounds and pence when Hannibal was at the gate! We have lived to see the class of society which bore the chief part in the reign of profusion, reap its bitter fruits. It is possible, though very far from certain, that they may profit by the experience which is the only gain the event brings with it, and refuse their blind confidence to state empirics whose authority is only derived from the fears of the patient, and who, like Sangrado, have but one nostrum, and, like him, produce but one result. At present, we are only tracing the history of the past; and having exhibited the prodigious amount of the evil, it was as well to see how far the authors of it and their willing instruments were themselves disposed to regard it as unavoidable.

Such has been the course of the expenditure into which the late disastrous wars have plunged the country; such the manner in which we have learnt to reckon the burthens of the State by thousands of millions, and its current expenses by hundreds. When, at length, the contest ceased, surely some relief might have been expected; some breathing-time at least to a people

so long-suffering and so oppressed. Yet the Ministers endeavoured to maintain the Income and Malt duty, by far the most intolerable of all the war taxes, and were only defeated by the steady determination of the country no longer to bear them. The loss of so much revenue compelled them to lower, in a certain degree, the scale of their Peace establishment; but the expenditure of the State in the first year of peace was almost 100 millions, in the next it exceeded 73, and in 1820 it had risen again to nearly 75, including above four millions yearly for the expense of collecting those enormous revenues which such an expenditure rendered necessary. These sums, no doubt, include the charges of the debt; but the expenses of the establishment itself, without any thing for the debt, were, in 1816, 45 millions; in 1817, 27; and in 1820, 26; the whole expenditure of 1792, debt included, having been somewhat about 18 millions, and the establishment without the debt less than eight. The expense of collecting the revenue is here added as it ought to be; for it is so much taken from the people, and added to the patronage of the crown. But were no attempts made to lower this heavy charge? It cannot be denied that there were; that celebrated Committee of which we have spoken was appointed to investigate the subject; and the exploits of this body form the principal topic of discussion in the admirable pamphlet before us.

It is with perfect justice and an accurate knowledge of Parliamentary tactics, that the author denominates this measure, always of late years resorted to by the Government, when pressed by the cries of the people for retrenchment, 'a notable device of modern times for transferring the duties and responsibility of the executive government to a Committee named by the Minister;'—and he states two objects which the manœuvre is intended, and has hitherto proved but too well calculated, to secure—the withdrawing the grievances complained of from public discussion, and the eventual gaining of a Parliamentary sanction to the Ministerial measures for meeting, or rather evading, the complaints of the country. He considers, however, that the conduct of this Finance Committee has been so extraordinary, and its formation attended with such circumstances, as must hereafter prevent an expedient 'so deeply injurious to the interests of the country, so palpably delusive and insulting to the people,' from ever being resorted to. He then enters upon the history of the Committee, beginning with the speech by which the Minister introduced it.

Whatever effect this elaborate display of Lord Castlereagh may have produced upon his audience, certain it is, that when he disclos-

ed to the House of Commons the names of the twenty-one national benefactors, to whom he was about to delegate this momentous trust of restoring the resources of the country by retrenchment and economy—when it appeared from such disclosure, that a considerable portion of these gentlemen were the fellow-servants of the noble Lord in office, and that a great majority of the remainder were gentlemen who avail themselves of every opportunity for expressing their unqualified approbation of his measures—there were members in that assembly, the best qualified, from experience and independence of situation, to form an accurate judgment upon such subjects, who did not hesitate to expose to the nation, in language pretty unqualified, the gross and insulting delusion which was about to be practised upon it.’

But the principles upon which the persons were selected, appear to have been, with great frankness, certainly, if with little wisdom, stated before hand by the Noble mover. An extract from his reported speech is given from the Parliamentary Debates; and it consists of an open attack, hardly veiled by the forms of civility, upon all members of Parliament who belong to no political party, and judge on each question for themselves. The Minister of the Crown sneers at those persons as, ‘with great honour to themselves, and *no doubt with great advantage to their country*, reserving their minds for an impartial consideration of every topic;’ but he says, ‘they are not very numerous, nor are they treated *with peculiar respect* by the other side of the House.’ He therefore ‘rejects the visionary prospect of choosing the Committee out of *that rare and pure class of mortals*.’ He avows himself a sharer ‘in the indisposition manifested towards *the class of impartial persons*;’ and pronounces a laboured eulogy upon the conflicts of party as the only means of carrying on the business of the State. Mr Wilberforce at once declared, that he could expect little good from a committee so named; as indeed it was obvious, that, when a minister objected to neutral members, and professed to chuse among party men, he only meant to pack it with his adherents; and he warned the Government against chusing it, so as to give no confidence to the country, looking, as it did, and he thought most justly, with great alarm, to the increased influence of the Crown.

How far this alarm was well founded, the very first step taken in the nomination showed. To relieve the suffering people of England from as large a portion of their dreadful burthens as could safely be dispensed with, was the avowed object of the Committee. A most essential part of the inquiry was, of course, into the useless offices fit to be abolished; and this, in every view important, was in one respect, namely, with reference to

the persons who ought to compose it, by far the most material consideration; for it was the branch of inquiry most certain to divide men's opinions and wishes. Now, the first division which took place in the House of Commons was upon two names proposed; the one, an independent country gentleman, member for Cornwall, and leaning strongly towards the Government in his Parliamentary conduct; the other, a constant supporter of the Minister, and holding, at the time, one of those very places which ought to be the most speedily abolished—namely, a paid Commissioner for India affairs. Upon a division, the placeman was preferred, by a majority of forty-two, as the fit person to decide whether such places as he held himself, ought to be continued or abolished. The House next divided upon another proposition of the Minister, and preferred to the same county member, a gentleman closely connected with the Administration, holding one office which required to be closely examined and reformed, and another which, according to the obvious intent of the statute of Queen Anne, though not by its letter, ought to disqualify the holder from sitting in Parliament altogether; and connected by pensions to his family with the $4\frac{1}{2}$ per cent. fund, the restoration of which, to the public, formed one of the most prominent objects for the Committee's attention. The preference of a person so amply qualified to enter upon such reforms with vigour and effect, was testified by a majority of sixty-two vigilant and conscientious guardians of the publick purse in that House, which is supposed to consist of the representatives of the people. After such specimens of the temper in which both the Government and the House were prepared to act, there was the less to be wondered at in a county member, attached to Mr Pitt's party generally, but desirous of retaining his independence, refusing to allow his name to stand on such a Committee. Sir J. Sebright declared, that he regarded it as 'a gross imposition upon the publick; that he would not set his foot into a committee so constituted, as, by so doing, he should be lending his aid to mislead and delude; and that he owed it to his country, not to practise a gross and scandalous delusion upon it.' The whole number of Opposition members allowed to be named was three, of whom one could not attend from the state of his health. The rest were ministerial country gentlemen, of whom two only had ever been known to take a line at all different from the Government, or persons actually in office, or noted expectants of preferment.

Thus constituted, the Committee proceeded to fulfil the end of its being—and especially that primary one, of keeping all discussion out of sight. The Army Estimates were brought forward

immediately by the Secretary at War,—but only for the purpose of being postponed till after Easter, ‘when the Report of the Committee would be laid upon the table;’ and, in the mean time, those estimates were to be settled in that private and confidential place. The following remarks place in a striking light the prodigious mockery which was thus practised upon the country.

‘If the nation could afford to be *amused* with this expensive and insulting foolery, it certainly would be curious to speculate upon those anxious hours, and days, and weeks, which Lord Palmerston must have passed till he knew *how he stood* with the Committee of Finance—till he became perfectly acquainted with the extent of the havoc which was making in his estimates by Lord Castlereagh and Mr Vansittart, by Mr Huskisson and Mr Peel, by Lord Binning and Sir George Clerk, by Mr Holford, the member for Queenborough, and the Commissioner in Ireland, Mr Frankland Lewis, * by Mr Hart Davis and Mr Gooch, by Lord Clive and Mr Cartwright, and by Mr Wilbraham Bootle Wilbraham. If, however, Lord Palmerston’s anxiety must have been great, during this painful period of suspense, his triumph and gratification could not have been less when he found, that between his own estimates and those of the Committee of Finance, there was not the difference of even a single soldier, for all the military establishment of this great empire. It was on the 12th of May, 1817, that Lord Palmerston moved the army estimates for the remaining half year; this was the day to which, on the former occasion, he had specifically deferred the *general discussion* upon the subject; but now his Lordship said, “*the labours of the Finance Committee made it unnecessary, for him to trespass at such length as he might have otherwise felt himself bound to do; the general and comprehensive statements in the Second Report of this Committee would enable gentlemen to satisfy themselves on many points;*” and, eventually, he moved, for the remaining half year, the precise number of men, 121,035, that he had on the former occasion moved for the first half year; so here was exhibited the *second* great object of a Committee of Finance, named by a minister of the Crown, *viz.* a parliamentary sanction given to ministerial estimates. It was by these ingenious contrivances, that those Army Estimates, which occupied the House of Commons for six or seven weeks of the last session of parliament in constant discussion (the consequence of which discussion has been a diminution of 10,000 men) in 1817, did not occupy the House for near as many hours, and did not suffer the diminution of a single man: but such was the purpose for which this Committee of Finance was formed.

* Since appointed commissioner; then, together with Sir George Clerk (since a lay Lord of the Admiralty), in his preparatory or probationary state.

‘ When the Navy Estimates came to be voted in the year 1817, March 14, the same scene was repeated before the representatives of the people, and with the same gravity which had been before displayed respecting the estimates for the army. Sir George Warrander, the Lord of the Admiralty who usually moves the supplies for the navy, appears to have been influenced by the same distrust of his own judgment, and the same deference for the public interests, which had marked the conduct of Lord Palmerston; he would only move the supplies for the first half year, leaving the provision for the remaining half year to the more matured and dispassionate consideration of Sir George Clerk and the other members of the Finance Committee: And here again there was the same happy coincidence between Sir George Warrander and the Finance Committee as on the former occasion; not a single ship too much, no, nor a lay Lord of the Admiralty neither, nor one in the least overpaid for all his laborious duties in the service of the State.

‘ If the actors in these scenes did not speak for themselves, it would be quite impossible by any other evidence to satisfy the nation, as to the species of treatment which it receives from its representatives.’ pp. 23—26.

A Committee, so admirably calculated by its formation to do the work of those that sent it, might well be expected even to go beyond its commission; and accordingly, we find it originating a measure peculiarly ill adapted to its avowed object, retrenchment, but wonderfully conducive to the real purposes of its creation, the protection of existing abuses. The gentlemen whom our author has described, began by recommending the abolition of certain sinecure places, in each case subject to the vested interests; that is to say, none of those rich sinecures were to cease until the decease both of the holders in possession and in reversion. But as if afraid of what they had done against the patronage of the Crown, they commended at the same time the creation of a perpetual pension fund, beside all those already at the command of the Crown—a fund expressly devoted to the reward of men who should remain a certain time in certain offices of the State. There is little occasion to observe, that the Parliament instantly acceded to this advice; and an act was speedily passed, to ‘ enable his Majesty to recompense the services of persons holding, or who have held, *high and efficient* civil offices.’ It turns out, however, that the provision for retired statesmen by profession, which this extraordinary act makes, reaches from the Prime Minister down to the most humble members of the administration, the Secretaries of the Admiralty and under Secretaries of State. A scale of pensions is established according to the length of their service in those places, respectively, and a fund of forty-five thousand a year is vested in the Crown to be thus distribu-

ted in retired allowances. The ministers who patronized this measure, when for a very short season they exhibited the inexplicable and almost miraculous appearance of being actually out of place, were familiarly termed the *ousted clerks*. Surely they have well acted up to their title since their restoration, and never so perfectly in character as upon the occasion to which we are alluding. This measure for the first time recognises, by a solemn act of the Legislature, that there is a separate profession or trade of politicians,—of men who enter into the line of counselling their Sovereign, and assisting him in the government, and representing him in Parliament, as the means of gaining a living. It levels all distinction between the great officers of State, and the plainest clerk who drudges behind a desk; it treats all publick men alike as hirelings, who, while in our employ, are sure of their bread, and, when turned out or superannuated, should be made comfortable by a pittance from their former masters. But it also enables the Crown to provide for one set of favourites all at once, to the exclusion of every other minister who for years may succeed them. Moreover, it enables a man in the very prime of life to retire with a large pension, after a few years service; it begins the system of pensions long before any of the sinecures, of which it professes to supply the place, have ceased; and, what in a constitutional point of view is extremely objectionable, it not only creates valuable offices tenable with seats in Parliament, but offices, the acceptance of which never vacates the holder's seat even at first. The assumption upon which the measure is founded, that the abolished places were the property of '*the trade*,' as our author hath it, is happily exposed by him in the following passages.

' This pension-making act assumes, as a principle, that the different sinecures abolished by the three or four preceding acts (most of which appear of the lowest and most objectionable description) were the absolute property of our "*high and efficient public men*." And then it logically concludes, that because these offices are abolished, our "*high and efficient public men*" must be provided for in some other way. The doctrine of vested interests in existing sinecures has been too often carried to an extent sufficiently unwarrantable: but to provide against the termination of a sinecure by creating a perpetual pension, and to a greater amount; nay, to make the pension begin before the sinecure is to end, exhibits at least a degree of acuteness in our "*high and efficient public men*," which has no parallel in any of their predecessors.

' At various periods of our history the Crown has parted with great hereditary revenues, which, according to custom, as well as by law, the Monarch could grant to either the great and meritorious

Officers of State, or to his own personal favourites and connexions ; but on no such occasion has any representative of the people had the courage to stand up in his place and to say, " Here is a considerable mass of property or plunder, withdrawn from the grasp of our *high and efficient public men* : the people must make it up to them by corresponding pensions."

' The rapacious reign of Charles II. furnishes no precedent of this kind ; and from the Revolution down to our own time, and during which period various places have been abolished, no complaint has ever before been made, on such occasions, that the market was too scantily supplied for the support of our "*high and efficient public men*," and that some new stock must be created for such purposes. But there is no end to the objections to this disgraceful measure. Had the principle, upon which it professes to be founded, been rigidly adhered to, the people would have been favoured with an account of what was actually saved by the abolition of these different sinecures in question, for the purpose of seeing how far the money saved tallied with that which they were to pay. Then, again, as they were to have the honour of supporting our "*high and efficient public men*" from thenceforth for evermore, merely because certain places were taken away, it would have been only an act of justice to the people to have shown them how these "*high and efficient public men*" had been hitherto supported by such offices as those of the corrector and supervisor of his Majesty's printing press ; compiler of the Dublin Gazette ; master of the revels ; seneschal of his Majesty's manors (all in Ireland) ; or by the offices of the receiver of bishops' rents ; and inspector general of wheel carriages (in Scotland).

' Again ; if there had been any consistency in the authors of this measure, as they professed by this bill to make up to the Crown for the patronage it lost from the abolition of these places, by giving it, in return, a patronage over pensions, they would have left this pension fund at the sole disposal of the Crown, without presuming to interfere with its application themselves. But this reforming committee have just dealt as freely with the power of the Crown as with the money of the people ; they have taken all into their own hands ; they have taken upon themselves to select the proper objects of the royal bounty ; and they have estimated the precise value of their services. Secretaries of State are put down in the Finance Committee Bill as worth exactly so much—a head ; and all the other high and low "*efficient public men*" have, in the like manner, each their value fixed ; the only condition imposed upon *the trade* is, that they shall have served their time out.' pp. 29-32.

The defence of the new plan is rested upon one merit which it possesses, when compared with the former one. The sinecure places always existing were sure to be filled, whether persons who deserved them were to be found or not ; whereas, it is optional with the Crown to grant or withhold the pensions.

The answer to this is manifest; it is an argument, and a very powerful one, for abolishing the sinecures, but none for substituting pensions in their room. And, indeed, he must be a *sanguine* observer of public affairs, rather than a *near* one (like the author of the Tract before us), who can bring himself to believe that the difference exists at all which the reasoning assumes. For, who *can* suppose that the fund will ever be treated otherwise than as so many sinecure places, and always applied by filling each vacancy that appears? But the principal part of the Committee's functions was the settlement of the Estimates; and we find that this body, to whom the whole inquisitorial office of Parliament was delegated, and whose exploits were to be a compensation for all that the representatives of the people could attempt towards relieving their intolerable burthens, did really nothing more than collect a little scattered information with regard to the estimates of former, compared with those of late years, and offer a piece of good advice naturally growing out of that comparison. We shall now state both the comparison and the advice—and then show how both the Parliament and the Committee themselves have since acted upon it.

The whole expense of governing and defending this country amounted, before the war, to little more than five millions and a quarter; if the charge for Ireland be added, the whole was still somewhat under seven millions. These sums are exclusive of the costs attending the collection and management of the revenue, which were somewhat above a million more, making the whole under eight millions. The charges of the debt and sinking fund, were somewhat above $10\frac{1}{2}$; so that the utmost limit of the national expenditure, for all purposes, was not 19 millions. In 1817, when the Committee sat, the Civil and Military establishment cost nearly 23 millions; the collection of the revenue above $4\frac{1}{4}$; and the charges of the debt amounted to above 44;—making a total expenditure of above 71 millions, or not much less than four times the expenditure of the last peace, taken upon an average of three years; and a charge for Government and defence considerably more than threefold that of the former period. In what manner this increase had taken place, the Committee have also given some materials for explaining. The whole regular army, cavalry, infantry, artillery, and marines, in 1792, was under 54,000 men; in 1817, it was about 124,000,—and the navy had increased above a fourth. The expenses of both forces had also augmented in a high proportion. In the pay and contingents, indeed, and especially in the pay, there was but a moderate increase; for there was a calculation given of the expense of pay and contingents for 8000 men, at the two periods, by

which it appeared that in 1792, the former was 210,000*l.*, and the latter 85,000*l.*; in 1817, the former was 270,000*l.*, and the latter 60,000*l.*; whence it is abundantly obvious, that the mere article of pay alone could not have made a difference of more than 405,000*l.* upon the establishment of 1792, and the contingents of 168,000*l.*; and yet the whole expenses of the army exceeded those of the former peace by about nine millions. Even if we deduct the difference of the half-pay at the two periods, or about two millions, there remains the difference of seven millions to be accounted for; and this can only be ascribed to the increase of the actually embodied force, between two and threefold, of all the establishments connected with it, and of the charges, independent of mere pay to which it subjects the country. The Committee gave one valuable statement, with a view, no doubt, of accounting for, and defending this augmentation, but which can never be too constantly kept in view by those who would reduce it. They stated the increase of force occasioned by the extension of our colonial possessions; and it appeared that this amounted, in all, to very nearly 24,000 men—the bare pay and contingents of which, at the new rate, amount to about a million, and make the difference of the colonial expense, in the two periods, as far as regards the pay and contracts of troops alone, not much less than a million and a half, borne entirely by the mother country. Compare now the whole expense arising from the difference of the whole Army, in the articles of pay and contingents, and we shall find, on the footing of the Committee's estimate, that the establishment of 124,000 men in 1817, cost above five millions at the new rate of pay and contingents, while the 54,000 of 1792 only cost a million and a half, at the rates of the time, and would have cost considerably under two millions, had their pay been raised to the rate of 1817, contingents and all other expenses remaining the same. The same remarks apply still more strongly to the Navy, as far as pay goes; that forming a very considerable portion of the whole charge. The pay of the men even in 1817 was not much more than half a million; and the whole difference upon pay and half-pay together, did not exceed a million; although the excess of the whole navy expense was considerably above $4\frac{1}{2}$ millions.

Such were the circumstances in which the Committee made their solemn and famous recommendation of economy to the House of Commons and the country. It was couched in the following remarkable terms.

Your Committee, in making reference to the year 1792, desire to call the notice of the House to the low establishments of the latter part of that year, which were deemed sufficient for all national purposes

at that time, in the contemplation of a long continuance of peace; and although many circumstances are materially changed by events which have subsequently taken place, so as to prevent any exact parallel from being drawn between the two cases, especially in the amount of pecuniary charge; yet they submit, that as near an approximation to that low scale of establishment and expense as may be found consistent with our more extended possessions, and with the augmented rates of various fixed disbursements, would be highly advantageous in relieving the burthens and supporting the public credit of the country.” p. 35.

Now, we shall pass over the very disputable matter contained in the qualifying and restraining words of this recommendation, and come at once to the manner in which those upon whom it was thus urged, and those who urged it, have since thought fit to act upon it; for we are occupied in showing the grounds of serious discontent which exist in this country; and the conduct of the House of Commons is, beyond all doubt, the chief among these.

The total expenditure of the United Kingdom, in the year when the Committee thus recommended every practicable retrenchment, in order to ‘approximate to the expenditure of 1792,’ was somewhat above 68½ millions, exclusive of the expense of collecting the revenue; the actual sum was 68,571,000*l.* In 1818, it was 68,821,000*l.*; in 1819, 69,494,000*l.*; and in 1820, it had so far ‘approximated to that of 1792,’ as to stand at the very respectful distance of 70,850,000*l.*—being an *increase* of above two millions and a quarter instead of a diminution since the date of the Report. So if we look to the details; it did seem rather a suspicious mode of ‘approximating’ to the expense of 1792 (when the Civil establishment was 1,003,000*l.*); that in 1817 it should have been 1,885,000*l.*; and in the year, after the strong recommendation, that it should, somehow or other, have risen to 1,912,000*l.*; and in 1819, to 2,090,000*l.* Thus, too, the Navy rose in 1818, from 6,473,000*l.* to 6,521,000*l.*; and the Ordnance, between 1817 and 1819, took its stride from 1,435,000*l.* to 1,538,000*l.* The large head of Miscellaneous Service, meanwhile, was growing apace, under the pressure of economical recommendation; it expanded from 1,827,000*l.* to 2,211,000*l.* in 1818; in 1819 it was not brought back to its level; and in 1820 it still stood at 1,924,000*l.* But in 1821, when four long years had been given to the Government for weighing the recommendation, and longer still to the country for feeling the utter neglect of it, the estimates which were laid before Parliament, for the whole military service, Navy, Army, and Ordnance, exceeded, by above 400,000*l.*, the same estimates in 1817! The point of approximation towards which the eyes

of Parliament and the country were pointed by the Committee, was the sum of 4,123,000*l.* including extraordinaries; the manner in which that point was aimed at, was by raising the estimates for the *ordinary* expenses, from 13,951,000*l.* to 14,353,000*l.* ! !

It might be supposed that the production of such estimates, and the instantaneous revolt of the Finance Committee from the Ministry, would have been one and the same thing. No infirmity of memory can account for their forgetting their own recommendation of 1817—nothing can explain their quietly submitting to this utter disregard of it, on the part of those whose instruments they had been so short a time before. Silent, nevertheless, they were to a man; and it was during this pause that Mr Hume—whose persevering industry is above all praise, and whom *they* only undervalue and wish ill to, who prize the continuance of abuses, and are friendly to the creation of arbitrary power upon the ruins of the national prosperity—brought forward a proposition which, being couched in the very words of the ‘ recommendation ’ itself, brought the sincerity of its authors to a somewhat severe test. He moved, ‘ that in the year 1821 ‘ there was a larger disposable force, by 132,367 men, available for purposes of Government, than in 1792; and that the ‘ supplies voted for the expenses of the military establishment ‘ in 1792 were 2,331,149*l.*, and those for the year 1821 were ‘ 9,500,216*l.*; and that it was the opinion of the House, that ‘ under the present situation of the country, it was expedient to ‘ adopt measures to effect a large reduction in the numbers ‘ and expenditure of its military establishments; and to approximate as near as possible to the establishments of 1792, as ‘ recommended by the Finance Committee of 1817.’ (p. 37.)

The following remarks of the Tract before us, are as just as they are forcible.

‘ The sincerity of the Finance Committee was thus brought at once to a test. Their Report had been made four years without any approximation to that scale of expenditure which they themselves had recommended; the difficulties of the country were greatly increased; a return to a metallic currency had been recently effected, and the facility greatly augmented thereby of approximating the scale of expenditure of 1792. Mr Hume’s motion therefore was only to ask the House, under these circumstances, to adopt that opinion which had been voluntarily advanced by the Finance Committee in 1817. Reasonable, however, and indeed unanswerable as this proposition was, it was defeated by a majority of 24, the numbers being 98 to 74; and from that day, the Finance Committee of 1817, or rather the greatest portion of its members, were the most constant and active opposers of every reduction whatsoever, that was proposed in the course of the session.

‘ In any other place but the House of Commons, a committee of gentlemen, who had undertaken the trust of examining the expenditure of all the establishments of the country, with the avowed object of “*relieving the burthens and supporting the credit of the nation*,” and who had given a grave and deliberate opinion as to the means by which they conceived this great work might be accomplished,—such a committee would be considered in a somewhat perplexing dilemma, if they were found all at once to be the foremost in defeating, by every means in their power, the very same project which they themselves had suggested. They would feel themselves, at all events, bound to satisfy the nation, that accidents, or alterations of one species or another, had interfered with or defeated their reasonings and conclusions; and, above all, they would be intent upon proving to the country, that they had not been trifling with public feelings and expectations upon subjects of such grave and vital importance. But the conduct of the House of Commons is an exception to all rules which prevail amongst ordinary men.

‘ This preliminary motion of Mr Hume having failed, the Finance Committee having refused to act upon or even to recognise their own Report, the only course left for Mr Hume, and those who supported him, was the exercise of that inquisitorial control over the public money so wisely vested in the House of Commons, and which enables any of its members to bring into public view, and to a direct vote, every single article of the public expenditure, as it is presented in succession for the necessary supply. It was in this regular and parliamentary course, that, for a period of nearly four months together attempts were made, day after day, and night after night, by Mr Hume and other members, but principally by Mr Hume, to effect a reduction in every branch of the public expenditure, and in almost every article of such branch, in strict conformity to the recommendation of the Committee of Finance in 1817. On every one of these occasions, however, the members of the Finance Committee were always too powerful. Lord Castlereagh, who named that Committee, and Mr Huskisson, who drew its Report, were the constant and active opposers of every reduction that was proposed; and it is unnecessary to add, that a majority of the House of Commons uniformly adopted their objections.

‘ But the House of Commons was not content with merely rejecting these obvious and irresistible demands of Mr Hume and his supporters; the very attempt at saving public money was treated as a subject of merriment by the representatives of the people. The speeches of Lord Palmerston and Mr Robert Ward upon the respective subjects of the army and the ordnance estimates, and the applause they met with, are striking illustrations of this fact; upon more than one of these occasions Mr Brogden himself, the Chairman of the Ways and Means, could not resist being playful; and Lord Castlereagh, who preserved his vivacity to the last, on the very night even of his own defeat, indulged himself in attempting a por-

trait of Mr Hume, in the double characters of Harlequin and the Clown Grimaldi.' pp. 37-40.

Nothing can be more instructive than the conclusion of a drama, which, at the beginning, appears to have been deemed so lightly of by some of the actors. An impression was made, as generally happens, first on the Public, and then communicated to the House of Commons. The distresses of the times, particularly over the agriculturists, increased, and men's minds were irresistibly turned towards the relief to be derived from diminishing the publick burthens. Mr Western carried, on one day, a motion for repealing the new malt-tax; and a few days after, the ministers, who had ascribed this victory at the time to mere accident, and with their accustomed tenderness towards the people, advised them 'not to halloo before they were out of the wood;' summoned all their friends, and made their threats good, by a great majority against the bill. The country gentlemen, however, now took the alarm in their turn; they felt the distress which was crushing them; they saw the obstinate determination of the Government to give them no relief; and they came forth, at the latter end of the session, as the supporters of economy and repeal of taxes. Mr Curwen's motion for repealing the agricultural horse-tax, was supported by Mr Gooch, who bestowed much praises on Mr Hume's laborious exertions; described the country as exhausted, its burthens as unbearable, and a reduction of expenditure as the only course left, when the means were so fearfully contracted. The ministers, after vehemently opposing the motion, were defeated by a majority of 141 to 113, and threatened to muster their forces again upon the next stage; but finding they would only encounter a new discomfiture, they at length yielded; Lord Castlereagh, in his own inimitable style, observing, that 'he considered the question as a matter of sympathy, and he hoped the country would accept, with pleasure, the boon which had been conceded, from a sort of warmth of feeling, rather than a deep consideration of the subject.'—'Let us' (says the author of the Tract before us) 'be duly grateful for these benevolent dispositions in a minister of the Crown, who has been betrayed by his feelings, in opposition to his judgment, into conceding to the people that relief, which, according to the division, he had no longer the power to withhold—from a tax, which, according to Mr Gooch, they were no longer able to pay; and let us hope, that other classes of our fellow-subjects, who are affected by taxes much more personally oppressive, and much more injurious to the general interests of the state than the agricultural horse-tax, may be equally successful in their

‘ appeal for mercy to the *sympathy* of the ministers of the Crown!’ (p. 49.)

Before the close of the session, it was deemed expedient to call on Parliament for some distinct pledge upon the subject of retrenchment; and Mr Hume moved an address, requesting the Crown to give directions for a minute investigation of the expenses attending the collection and management of the revenue; a careful revision of all salaries, especially of those increased since the currency was first tampered with in 1797, with a view to reducing them; and, generally, a reduction of all unnecessary expenditure. Hereupon a strange sight was witnessed. Mr Banks, of the Committee of 1817, came forth and moved an amendment, adopting every material part of the original motion; and chiefly differing from it in prefixing an acknowledgment of the propriety of a revision of the customs then going on, though, strictly speaking, quite unknown to the House. In all the rest of the amendment, the recommendation of economy, reduction, and revision, followed that of the motion, in stronger and more definite language. It was seconded by Mr Gooch, and carried unanimously, after a division in favour of the original proposition.

‘ This closing scene of the session was in every way worthy all that had preceded it, and to be the concluding act of the reign of the Committee of Finance of 1817. With the single exception of the introductory gratuitous piece of flattery to the Government about a treasury commission for regulating customhouse fees, and with which the House of Commons had nothing then to do, Mr Banks’s amendment was Mr Hume’s motion, sentence for sentence, subject for subject; in words, indeed, rather stronger and more definite; but the dignity of the Government, of the Finance Committee, and of the House itself, could not submit to take this motion from Mr Hume himself; it must come from Mr Banks; it must come, forsooth, from the Finance Committee. So here the same farce was repeated that had been performed before in 1817; and by the very same actors, though the parts were differently cast. In 1817, Lord Castlereagh exhorted Mr Banks (among the other gentlemen of his Finance Committee) to summon all the *firmness* he was master of, to sift and probe every public grievance to the bottom; to make every possible reduction in the public expenditure; to abolish every useless office; and to restore his country to that state, which should enable it to cope with any new difficulties that might arise. Mr Banks is now produced as changing characters with Lord Castlereagh, and he gives him back the precise advice which he received from him in 1817. Be it always remembered, that this was the occasion on which Lord Castlereagh compared Mr Hume to both Harlequin and the Clown Grimaldi!’ pp. 51–53.

We have anticipated somewhat in our narrative of the progress of national grievances, and the growth more especially of the public burthens, for the purpose of carrying on, without interruption, the history, instructive as it is, in a high degree, of the Finance Committee from its formation in 1817, to what may be deemed its *last* appearance, in 1821, when its members covered themselves with so much glory through the whole session; and, finally, at its close, surpassed themselves, like the renowned Roman, of whom Cicero said, that he was of such incredible virtue, as at length to outdo his own outdoings! Return we now to the point where we broke off, in order to follow this great body, this phenomenon of economy and reform; and we shall find ourselves back again at the period of 1817, the beginning of the permanent peace, and of the time when the people naturally expected to breath a little more freely after all their sufferings and toils.

The expenditure went on gradually increasing; in 1818, it was above a quarter of a million more than the year before; in 1819, the increase was considerably greater; and in 1820, it was very nearly two millions more than in 1817. The revenue, however, did not keep pace with the expenditure; and though it rose considerably in 1818, in 1819 it sunk again; a clear indication, as the fall was general over all its main branches, that the country was not in the state of plethora which rendered a new drain necessary. Nevertheless, to taxation our rulers had recourse; and they were supported by our faithful representatives. Above three millions of new duties were imposed upon this exhausted country, and in the very way most likely to increase the general distress. For they were made to fall on articles which peculiarly affected the agricultural interest, and the labouring classes; tending ultimately to raise the price of all labour, to abridge in the mean while the comforts of the poor, and to increase the burdens on the land. But in whatever way they had been levied, any augmentation of the public burthens, on pretence of maintaining a sinking fund, was an act of cruelty only to be equalled by the perverse folly of it. The people had every occasion for repose, and every right to it; their necessities demanded it; their patience had earned it. The notion of taking money from them at such a time, to lay by and accumulate, for the purpose of paying off part of the debt, was worthy of the most unfeeling and most unthinking of projectors. The amount which it could pay was absolutely below computation, when contrasted with the mass of the debt; while the load already on the country was so heavy, that the increase of it was sure to be sensibly felt. Then, if the first object had been to

make progress in redeeming the debt, that would have been done far more quickly, by leaving the capital for some years to accumulate in all the channels of productive labour, and afterwards raising taxes which the country might have borne to a much greater amount, without feeling their pressure, when its resources had been augmented, its strength recruited, and the only legitimate fund of taxation enlarged, the clear surplus national income, above the cost of raising it and of supporting the people.

These reasons would have been abundantly strong enough to deter any governors of ordinary sense and humanity from so desperate a project; the more especially, seeing their utter neglect of the great resources to be derived from frugality, and their avowed determination to keep up the establishments of every kind as near the scale of the war as the patience of the nation would suffer. But an operation was going on at the very moment of the new Budget, which rendered it infinitely more preposterous, and aggravated prodigiously the weight of the additional burthens. The reader will at once perceive, that we allude to the Bill then passing for restoring the Currency; or rather the restoration of the ancient value of the currency, which had for some time been proceeding at a very perceptible rate, and was to be completed by the new measure, which also precluded every chance of retreat from the point not then very far distant. At the period in question, the Legislature was wholly in the dark respecting the effect which this great change was to produce upon prices. While some contended that it would only raise them in proportion to the difference still subsisting between the market and the mint prices of gold, or about four per cent.; others wholly denied this, and maintained, that as a rise of the price of gold to this amount had produced a far greater rise in other commodities, a fall would be attended with a similar depreciation. Most men were disposed to allow, that the general prices had not yet fallen with the fall which bullion had already experienced; and that the measure just adopted would irretrievably sink them, as well as cut off all chance of their rising; and that it would accelerate the period, when the rise in price of the currency already effected should produce its entire effect, and add materially to that full result. Some carried the probable difference as high as fifty per cent., obviously an exaggeration; others deemed twenty-five or thirty as far from an over-statement; but the general expectation was of a very considerable change taking place in the nominal value of all commodities, and an equally general difference of opinion prevailed as to its probable amount. This, then, was the very mo-

ment for doing absolutely nothing in the way of Taxation; for whatever was done, must be in ignorance of the effects. No man could tell what a hundred pounds would be worth the next year; no man could presume, therefore, to say what he meant when he laid on a tax to that amount; he might be levying 110, or 120, or 130; but he was aiming a random blow in the dark, utterly unable to tell on what point it might fall, or with what force. This was surely reason sufficient for pausing, and remaining still until the light should dawn. But one thing was clear enough; if the amount or the rate of general depreciation could not be foreseen, no man affected to doubt that, to some considerable extent, depreciation must take place. The hundred pounds nominally imposed might turn out to be 110, or 120, or more, by the time that the tax-gatherer's hand reached the people's pocket; but, at all events, it could not be 100—more it must be; so must every hundred pounds, or almost every hundred pounds of the vast amount of old taxes already in existence; so that, supposing not a farthing were added to them by new imposts, the change in the currency, without any further aid from the Government than what they lent it by passing the Bill, was most surely and effectually adding some millions to the already enormous burthens of the people—as surely and effectually as if so many millions were added to their former amount, by a direct operation of finance.

The least reflection upon the manner in which the Revenue of this country is raised, will prove the truth of these positions. By far the greater part of the taxes are fixed money duties; those really imposed *ad valorem* are comparatively few. The whole gross product* of the taxes in 1818, the year before the new duties, was nearly 53½ millions for Great Britain. Of this the Excise was 24½; and the duties on Auctions and Tea are the only material *ad valorem* heads of excise; they amounted to about 1½. Of the customs, which exceeded 11½ millions, there are no duties of any moment except the additional 3s. on sugar, which are *ad valorem*; and that has for many years, indeed almost ever since it was imposed, been nominal, from the low price of the article; the others certainly do not produce nearly half a million. The Post Office, nearly two millions, is a money tax entirely; and there remain only the Stamps and Land and Assessed taxes, and of these only a part are *ad valorem* properly speaking; namely, of the stamps, those on bills and receipts,

* This includes the charges of management, but not the allowances of repayments and drawbacks.

those upon conveyances, upon probates, and a part only of the legacy duty; the whole of these amount to $5\frac{1}{2}$ millions, including the stamps on law proceedings, which are money duties; of this sum, certainly not 4 millions were *ad valorem*. Of the land and assessed taxes, only the House tax falls properly within this description, and it yielded less than $1\frac{1}{2}$ million. At the very utmost, then, of the enormous sum levied upon the country; only between seven and eight millions were placed beyond the reach of the change effected in the currency, leaving above 46 millions within the full scope of its operation; so that each million became in reality twelve or thirteen hundred thousand pounds. Those who only allowed the change to be four or five per cent., would have estimated this alteration as equal to a rise of at least two millions; but the general opinion (which the event has confirmed) put it much higher; and there can be no doubt that the people have been paying nearer ten millions more than they did upon the same old taxes, while the currency was depreciated. Such was the precise moment chosen for the imposition of three millions of new taxes, by those financial scourges, the patrons of extravagance and sinking funds, and their supporters, the *representatives* of the people. The cruel operation at that very time going on so rapidly, of increasing the old duties, could not satisfy these remorseless calculators; and they must invent new burthens while events were going forward, the effects of which they could only so far foresee, as to be sure that they must render the old ones unbearable.

Nor let it be deemed the smallest impeachment of these remarks, that the total revenue raised by means of the taxes, old and new, did not increase, as was expected by the authors of the additional duties. Comparing the revenue of the United Kingdom for the years 1818 and 1820, there is a falling off to a trifling amount in the net produce; and in the revenue of Great Britain, there is an increase of less than 900,000*l.*, although the new duties should have raised it above three millions. But when a country is taxed so heavily, and the pressure is so general over almost all articles, the increase of the revenue in one branch, is very apt to be attended with a falling off in others; and so it seems to have happened since the war taxes were taken off in 1816. Thus the Excise fell off above three millions in 1817; but the Customs, Assessed Taxes and Stamps, increased nearly two millions. In 1818, the Excise rose above three millions, and the progress of the other branches was stopt; the Customs indeed fell off. When the new duties raised the Excise, the other branches fell off. But if there is any connexion between the augmentation of one branch

and the decline of another—if a tax on one article, which men either cannot or will not dispense with, diminishes the consumption of others which they can or chuse to go without, the worst possible consequence is produced; the comforts of the consumer are assailed; the trade of the grower, manufacturer and trader, is injured, a certain loss arises from the expenses of the change, and no gain accrues to the revenue of the State. The new taxes may therefore have been injurious to the whole community in a much higher proportion than they benefited the revenue. It is also very certain, that if the market of the commodities on which they fell was a declining market, their pressure would be very unequally distributed; a considerable portion of them falling upon the grower or manufacturer, and resting there. This must have happened to a great extent in the malt-tax, the history of which affords a very instructive lesson to the financier.

At the beginning of the war, the duty upon malt was 10s. 6d. a quarter; and the consumption about $3\frac{1}{2}$ millions of quarters; for the average of five years, ending 1799, was 3,560,000 quarters. After the duty had been raised to 34s. 8d., the average of five years' consumption was three millions: 16s. were taken off in 1816, and 9s. 4d. added again in 1819; making the present duty 28s.; in the currency, too, of 1792, and therefore fully more than the war malt-tax was when the currency was depreciated. Now the population, between 1801 and 1821, has increased from 10,471,000 to 14,069,000; consequently, since the beginning of the war, it cannot have increased less than four millions, or in the proportion of five to seven. In something like the same proportion, ought the consumption of malt to have increased, which would have made it now very near five millions of quarters; instead of which, it is less than three millions, or has actually fallen off above a seventh, instead of increasing two-fifths. It should be borne in mind, that the malt tax is not the only one which barley pays. The beer duty and the spirit duty fall upon it in other stages of manufacture; and in Great Britain, no less than 12,755,000*l.* are now levied by these three imposts. If the part which belongs to spirits be deducted, and we only take that which belongs to malt and beer, above eight millions are thus raised.

Before quitting this subject, we must state, somewhat more particularly, the actual pressure of the taxes; because, though nothing can be more certain than the augmentation of this pressure, occasioned by the change in the value of the currency, men's minds, deceived by the sound of the figures, are apt to overlook it; and cannot, without some effort, bring themselves

to perceive it fully. We shall first exhibit, in the convenient form of a Table, the variations in the value of the currency, and the nominal and real amount of the Revenue at the different periods. It is constructed from the accounts contained in the Report of the Committee of 1819, and from the foregoing Tables.

TABLE VI.—CURRENCY in which TAXES were Paid, in Twelve Years ending 1821.

Years.	Average market price of Gold, per oz.	Difference per cent. between Market and Mint Prices.	Nominal Amount of Taxes.	Amount of Taxes in the Currency of 1792 and 1821.
	L. s. d.			
1809.	4 10 9	16 $\frac{1}{2}$	71,887,000	60,145,000
1810.	4 5 0	9 $\frac{1}{2}$	74,815,000	68,106,000
1811.	4 17 1	24 $\frac{1}{2}$	73,621,000	55,583,000
1812.	5 1 4	30	73,707,000	51,595,000
Sept. to Dec. 1812.	5 8 0	33 $\frac{1}{2}$	—	—
1813.	5 6 2	56 $\frac{1}{2}$	81,745,000	52,236,000
Nov. 1812, to } Mar. 1813. }	5 10 0	41	—	—
1814.	5 1 8	30 $\frac{1}{2}$	83,726,000	58,533,000
1815.	4 12 9	18 $\frac{1}{2}$	88,394,000	66,698,000
1816.	4 0 0	2 $\frac{1}{2}$	73,909,000	72,062,000
Oct. to Dec. 1816.	3 18 6	under 1	—	—
1817.	4 0 0	2 $\frac{1}{2}$	58,757,000	57,259,000
1818.	4 1 5	5 $\frac{1}{2}$	59,391,000	56,025,000
1819 (to Feb.)	4 3 0	6 $\frac{1}{2}$	58,288,000	54,597,000
1820.	3 17 10 $\frac{1}{2}$	0	59,812,000	59,812,000
1821.	3 17 10 $\frac{1}{2}$	0	61,000,000	61,000,000

We may now remark, that although this Table gives the comparative amount of the taxes in the currency in which they were actually paid each year, and at par, it is, for obvious reasons, necessary to take an average of years, where there were such fluctuations in the depreciation of the currency within the space of a few months. Let us then take the two most expensive periods of the war; the three years 1810, 1811 and 1812, and the three years 1813, 1814 and 1815. The average depreciation in the former period was 21 $\frac{1}{2}$, and in the latter 28 $\frac{1}{2}$. The average *nominal* amount of taxes in the two periods was, in round numbers, 74 millions and 84 $\frac{1}{2}$ millions respectively; but their *real* amount, at par, was only 58 $\frac{1}{2}$ and 60 $\frac{1}{2}$ respectively. Therefore the country has been paying, during the last year, a larger amount of taxes, by half a million, than it did during the most wasteful and oppressive period of the late war; and a larger amount, by nearly three millions, than it did dur-

ing the period next to that in point of expenditure. Nothing can more truly illustrate the effects of the return to cash payments than this statement. The measure may have been wise; it may have been inevitable; but it has had the effect of augmenting the pressure of the public burthens to a larger amount than the removal of the war taxes relieved the country in 1816. When we speak of the return to cash payments, we of course do not allude merely to the measures of 1819, but the whole operation begun in 1815, of reducing discounts, and thus lowering the market to the mint price of gold.

Now, the great practical question is, Whether the country ought to be burthened, in the sixth year of peace, with a load of taxes somewhat greater than was levied during the most expensive years of a war wholly unexampled in profusion? That our establishments should be reduced to a far lower scale, no man, be his political opinions what they may, now ventures seriously to deny. That the higher salaries of publick functionaries must be diminished, and that many of their places must be dispensed with, is admitted on all hands.

More difference of opinion may exist with respect to the military establishment; but the impossibility of carrying on the government, without relieving the people by substantial retrenchments, will in all probability decide this question. The Sinking Fund is clung to with greater pertinacity, because it is supposed necessary to maintain the publick credit. Yet, in its origin, less, by nearly a million and a half, was appropriated to the redemption of the debt, than is now allotted for that purpose, making allowance for the different amounts of the debt at the two periods. No man denies that, if the resources of the country can bear it, a certain portion of the debt should yearly be paid off: But no man of ordinary sagacity now contends that the amassing money at compound interest, with this view, is either an economical or a rational project. If, instead of raising the interest of the redeemed debt, by continuing the taxes allotted to its charges, the money were left in the pockets of the people, an accumulation far more rapid would take place than any thing the powers of the boasted Fund can pretend to effect. But it is more than doubtful whether, in the present state of the country, any attempts should be made to pay off the debt; it seems a sounder, as well as a more merciful policy, to give the nation at length some breathing time—*spatium requiemque dolori*;—and, when a remission of the most oppressive taxes shall have rendered the others more productive, and recruited the financial resources of the State, by augmenting the wealth of individuals, then will the time be for obtaining a clear sur-

plus of revenue, which may be applied to the discharge of the debt, and, with each sum of the principal paid off, set free so much interest, and still further reduce so many taxes. This is the only kind of sinking fund which is founded upon intelligible principles, and calculated to secure its object upon economical terms. *

ART. V. *Sardanapalus, a Tragedy. The Two Foscari, a Tragedy. Cain, a Mystery.* By LORD BYRON. 8vo. pp. 410. Murray, London, 1822.

IT must be a more difficult thing to write a good play—or even a good dramatic poem—than we had imagined. Not that we should, *a priori*, have imagined it to be very easy; but it is impossible not to be struck with the fact, that, in comparatively rude times, when the resources of the art had been less carefully considered, and Poetry certainly had not collected all her materials, success seems to have been more frequently, and far more easily obtained. From the middle of Elizabeth's reign till the end of James's, the drama formed by far the most brilliant and beautiful part of our poetry,—and indeed of our literature in general. From that period to the Revolution, it lost a part of its splendour and originality; but still continued to oc-

* Before the commencement of the present Session of Parliament; a ministerial pamphlet was published, called the '*State of the Nation*,' and distinguished by a disregard of facts, which could hardly have been expected from the most inveterate habits of official assertion. The exposure which has frequently been made of its misstatements renders any detailed examination of them here quite superfluous. Indeed the reader can hardly, for a moment, be deceived by so clumsy a piece of fabrication. What, for instance, can be thought of a writer who gravely takes credit, on the part of the ministers, for all the retrenchments which have been forced upon them by their adversaries, and, in many instances, by votes of the House of Commons, parading these as if they had been voluntarily made upon a system of reduction and economy? Nor is it much less insulting to the common understanding of the publick, to praise the Government for those improvements in the commercial regulations of the country, which have been for years pressed upon them by their opponents; and as obstinately resisted by them, until, at last, it became impossible to avoid doing something, when as little has been done as was possible. In a literary point of view, the merits of the Tract are altogether upon a level with its fairness and candour.

cupy the most conspicuous and considerable place in our literary annals. For the last century, it has been quite otherwise—our poetry has ceased almost entirely to be dramatic; and, though men of great name and great talent have occasionally adventured into this once fertile field, they have reaped no laurels, and left no trophies behind them. The genius of Dryden appears nowhere to so little advantage as in his tragedies; and the contrast is truly humiliating when, in a presumptuous attempt to heighten the colouring, or enrich the simplicity of Shakespeare, he bedaubs with obscenity, or deforms with rant, the genuine passion and profligacy of Antony and Cleopatra—or intrudes on the enchanted solitude of Prospero and his daughter, with the tones of worldly gallantry, or the caricatures of affected simplicity. Otway, with the sweet and mellow diction of the former age, had none of its force, variety, or invention. Its decaying fires burst forth in some strong and irregular flashes, in the disorderly scenes of *Lee*; and sunk at last in the ashes and scarcely glowing embers of *Rowe*.

Since his time—till very lately—the school of our ancient dramatists has been deserted: and we can scarcely say that any new one has been established. Instead of the irregular and comprehensive plot—the rich discursive dialogue—the ramblings of fancy—the magic creations of poetry—the rapid succession of incidents and characters—the soft, flexible, and ever-varying diction—and the flowing, continuous, and easy versification which characterized those masters of the golden time, we had tame, formal, elaborate, and stately compositions—meagre stories—few personages—characters decorous and consistent, but without nature or spirit—a guarded, timid, classical diction—ingenious and methodical disquisitions—turgid or sententious declamations—and a solemn and monotonous strain of versification. Nor can this be ascribed, even plausibly, to any decay of genius among us; for the most remarkable failures have fallen on the highest talents. We have already hinted at the miscarriages of Dryden. The exquisite taste and fine observation of Addison, produced only the solemn mawkishness of *Cato*. The beautiful fancy and generous affections of Thomson, were chilled and withered as soon as he touched the verge of the Drama, where his name is associated with a mass of verbose puerility, which it is difficult to conceive could ever have proceeded from the author of the *Seasons* and the *Castle of Indolence*. Even the mighty intellect, the eloquent morality, and lofty diction of Johnson, which gave too tragic and magnificent a tone to his ordinary discourse, failed altogether to support him in his attempt to write actual

tragedy; and Irene is not only unworthy of the imitator of Juvenal and the author of *Rasselas* and the *Lives of the Poets*, but is absolutely, and in itself, nothing better than a tissue of wearisome and unimpassioned declamations. We have named the most celebrated names in our literature, since the decline of the drama almost to our own days; and if *they* have neither lent any new honours to the stage, nor borrowed any from it, it is needless to say, that those who adventured with weaker powers had no better fortune. The *Mourning Bride of Congreve*, the *Revenge of Young*, and the *Douglas of Home*, [we cannot add the *Mysterious Mother of Walpole*—even to please Lord Byron], are almost the only tragedies of the last age that are familiar to the present; and they are evidently the works of a feebler and more effeminate generation—indicating, as much by their exaggerations as by their timidity, their own consciousness of inferiority to their great predecessors—whom they affected, however, not to imitate, but to supplant.

But the native taste of our people was not thus to be seduced and perverted; and when the wits of Queen Anne's time had lost the authority of living authors, it asserted itself by a fond recurrence to its original standards, and a resolute neglect of the more regular and elaborate dramas by which they had been succeeded. Shakespeare, whom it had been the fashion to decry and even ridicule, as the poet of a rude and barbarous age, * was reinstated in his old supremacy: and when his legitimate progeny could no longer be found at home, his spurious issue were hailed with rapture from foreign countries, and invited and welcomed with the most eager enthusiasm on their arrival. The German imitations of Schiller and Kotzebue, caricatured and distorted as they were by the aberrations of a

* It is not a little remarkable to find such a man as Goldsmith joining in this pitiful sneer. In his *Vicar of Wakefield*, he constantly represents his famous town ladies, Miss Carolina Amelia Wilhelmina Skeggs, and the other, as discoursing about 'high life, *Shakespeare*, and the musical glasses!'—And, in a more serious passage, he introduces a player as astonishing the Vicar, by informing him that 'Dryden and Rowe's manner were quite out of fashion—our taste has gone back a whole century; Fletcher, Ben Jonson, and, above all, the *plays of Shakespeare*, are the only things that go down.' 'How!' says the Vicar, 'is it possible that the present age can be pleased with that antiquated dialect, that obsolete humour, and those overcharged characters which abound in the works you mention?' No writer of name, who was not aiming at a paradox, would venture to say this now.

vulgar and vitiated taste, had still so much of the raciness and vigour of the old English drama, from which they were avowedly derived, that they instantly became more popular in England than any thing that her own artists had recently produced; and served still more effectually to recal our affections to their native and legitimate rulers. Then followed republications of Massinger, and Beaumont and Fletcher, and Ford, and their contemporaries—and a host of new tragedies, all written in avowed and elaborate imitation of the ancient models. Miss Baillie, we rather think, had the merit of leading the way in this return to our old allegiance—and then came a volume of plays by Mr Chenevix, and a succession of single plays, all of considerable merit, from Mr Coleridge, Mr Maturin, Mr Wilson, Mr Cornwall, and Mr Milman. The first and the last of these names are the most likely to be remembered; but none of them, we fear, will ever be ranked with the older worthies; nor is it conceivable that any age should ever class them together.

We do not mean, however, altogether to deny, that there may be some illusion, in our habitual feelings, as to the merits of the great originals—consecrated as they are, in our imaginations, by early admiration, and associated, as all their peculiarities, and the mere accidents and oddities of their diction now are, with the recollection of their intrinsic excellences. It is owing to this, we suppose, that we can scarcely venture to ask ourselves, steadily, and without an inward startling and feeling of alarm, what reception one of Shakespeare's irregular plays—the *Tempest* for example, or the *Midsummer Night's Dream*—would be likely to meet with, if it were now to appear for the first time, without name, notice, or preparation? Nor can we pursue the hazardous supposition through all the possibilities to which it invites us, without something like a sense of impiety and profanation. Yet, though some little superstition may mingle with our faith, we must still believe it to be the true one. Though time may have hallowed many things that were at first but common, and accidental associations imparted a charm to much that was in itself indifferent, we cannot but believe that there was an original sanctity which time only matured and extended—and an inherent charm from which the association derived all its power. And when we look candidly and calmly to the works of our early dramatists, it is impossible, we think, to dispute, that after criticism has done its worst on them—after all deductions for impossible plots and fantastical characters, unaccountable forms of speech, and occasional extravagance, indelicacy and horrors—there is a facility and richness about them, both of thought and of diction—a force of invention, and a depth of sagacity—an originality of conception, and a play of fancy—a nakedness

and energy of passion, and, above all, a copiousness of imagery, and a sweetness and flexibility of verse, which is altogether unrivalled, in earlier or in later times;—and places them, in our estimation, in the very highest and foremost place among ancient or modern poets.

It is in these particulars that the inferiority of their recent imitators is most apparent—in the want of ease and variety—originality and grace. There is, in all their attempts, whatever may be their other merits or defects, an air of anxiety and labour—and indications, by far too visible, at once of timidity and ambition. This may arise, in part, from the fact of their being, too obviously and consciously, imitators. They do not aspire so much to rival the genius of their originals, as to copy their manner. They do not write as *they* would have written in the present day, but as they imagine they themselves would have written two hundred years ago. They revive the antique phraseology, repeat the venerable oaths, and emulate the quaint familiarities of that classical period—and wonder that they are not mistaken for new incarnations of its departed poets! One great cause why they are not, is, that they speak an unnatural dialect, and are constrained by a masquerade habit; in neither of which it is possible to display that freedom, and those delicate traits of character, which are the life of the drama, and were among the chief merits of those who once exalted it so highly. Another bad effect of imitation, and especially of the imitation of unequal and irregular models in a critical age, is, that nothing is thought fit to be copied but the exquisite and shining passages;—from which it results, in the *first* place, that all our rivalry is reserved for occasions in which its success is most hopeless; and, in the *second* place, that instances, even of occasional success, want their proper grace and effect, by being deprived of the relief, shading and preparation, which they would naturally have received in a less fastidious composition; and, instead of the warm and native and ever-varying graces of a spontaneous effusion, the work acquires the false and feeble brilliancy of a prize essay in a foreign tongue—a collection of splendid patches of different texture and pattern.

At the bottom of all this—and perhaps, as its most efficient cause—there lurks, we suspect, an unreasonable and undue dread of criticism;—not the deliberate and indulgent criticism which we exercise rather for the encouragement of talent than its warning,—but the vigilant and paltry derision which is perpetually stirring in all idle societies, and but too continually present to the spirits of all who aspire to its notice. There is

nothing so certain, we take it, as that those who are the most alert in discovering the faults of a work of genius, are the least touched with its beauties. Those who admire and enjoy fine poetry, in short, are quite a different class of persons from those who find out its flaws and defects—who are sharp at detecting a plagiarism or a grammatical inaccuracy, and laudably industrious in bringing to light an obscure passage—sneering at an exaggerated one—or wondering at the meaning of some piece of excessive simplicity. It is in vain to expect the praises of such people; for they never praise;—and it is truly very little worth while to disarm their censure. It is only the praises of the real lovers of poetry that ever give it fame or popularity—and these are little affected by the cavils of the fastidious. Yet the genius of most modern writers seems to be rebuked under that of those pragmatistical and insignificant censors. They are so much afraid of faults, that they will scarcely venture upon beauties; and seem more anxious in general to be *safe*, than original. They dare not indulge in a florid and magnificent way of writing, for fear of being charged with bombast by the cold-blooded and malignant. They must not be tender, lest they should be laughed at for puling and whining; nor discursive and fanciful like their great predecessors, under pain of being held out to derision as ingenious gentlemen, who have dreamed that the gods have made them poetical!

Thus, the dread of ridicule, which they have ever before their eyes, represses all the emotions, on the expression of which their success entirely depends; and in order to escape the blame of those to whom they can give no pleasure, and through whom they can gain no fame, they throw away their best chance of pleasing those who are capable of relishing their excellences, and on whose admiration alone their reputation must at all events be founded. There is a great want of magnanimity, we think, as well as of wisdom, in this sensitiveness to blame; and we are convinced that no modern author will ever write with the grace and vigour of the older ones, who does not write with some portion of their fearlessness and indifference to censure. *Courage*, in short, is at least as necessary as genius to the success of a work of imagination; since, without this, it is impossible to attain that freedom and self-possession, without which no talents can ever have fair play, and, far less, that inward confidence and exaltation of spirit which must accompany all the higher acts of the understanding. The earlier writers had probably less occasion for courage to secure them these advantages; as the public was far less critical in their day, and much more prone to admiration than to derision: But we can still trace in their writings the indications both of a proud consciousness of their own pow-

ers and privileges, and of a brave contempt for the cavils to which they might expose themselves. In our own times, we know but one writer who is emancipated from this slavish awe of vulgar detraction—this petty timidity about being detected in blunders and faults; and that is the illustrious author of *Waverley* and the other novels, that have made an era in our literature as remarkable, and as likely to be remembered, as any which can yet be traced in its history. We shall not now say how large a portion of his success we ascribe to this intrepid temper of his genius; but we are confident that no person can read any one of his wonderful works, without feeling that their author was utterly careless of the reproach of small imperfections, disdained the inglorious labour of perpetual correctness, and has *consequently* imparted to his productions that spirit and ease and variety, which reminds us of better times, and gives lustre and effect to those rich and resplendent passages to which it left him free to aspire.

Lord Byron, in some respects, may appear not to have been wanting in intrepidity. He has not certainly been very tractable to advice, nor very patient of blame. But this, in him, we fear, is not superiority to censure, but aversion to it; and, instead of proving that he is indifferent to detraction, shows only, that the dread and dislike of it operate with more than common force on his mind. A critic, whose object was to give pain, would desire no better proof of the efficacy of his inflictions, than the bitter scorn and fierce defiance with which they are encountered; and the more vehemently the noble author protests that he despises the reproaches that have been bestowed on him, the more certain it is that he suffers from their severity, and would be glad to escape, if he cannot overbear them. But however this may be, we think it is certain that his late dramatic efforts have not been made carelessly, or without anxiety. To us, at least, they seem very elaborate and hard-wrought compositions; and this indeed we take to be their leading characteristic, and the key to most of their peculiarities.

Considered as Poems, we confess they appear to us to be rather heavy, verbose, and inelegant—deficient in the passion and energy which belongs to the other writings of the noble author—and still more in the richness of imagery, the originality of thought, and the sweetness of versification for which he used to be distinguished. They are for the most part solemn, prolix, and ostentatious—lengthened out by large preparations for catastrophes that never arrive, and tantalizing us with slight specimens and glimpses of a higher interest scattered thinly up

and down many weary pages of pompous declamation. Along with the concentrated pathos and homestruck sentiments of his former poetry, the noble author seems also, we cannot imagine why, to have discarded the spirited and melodious versification in which they were embodied, and to have formed to himself a measure equally remote from the spring and vigour of his former compositions, and from the softness and inflexibility of the ancient masters of the drama. There are some sweet lines, and many of great weight and energy; but the general march of the verse is cumbrous and unmusical. His lines do not vibrate like polished lances, at once strong and light, in the hands of his persons, but are wielded like clumsy batons in a bloodless affray. Instead of the graceful familiarity and idiomatical melodies of Shakespeare, it is apt, too, to fall into clumsy prose, in its approaches to the easy and colloquial style; and, in the loftier passages, is occasionally deformed by low and common images that harmonize but ill with the general solemnity of the diction.

As Plays, we are afraid we must also say that the pieces before us are wanting in interest, character, and action:—at least we must say this of the two last of them—for *there is* interest in *Sardanapalus*—and beauties besides, that make us blind to its other defects. There is, however, throughout, a want of dramatic effect and variety; and we suspect there is something in the character or habit of Lord B.'s genius which will render this unattainable. He has too little sympathy with the ordinary feelings and frailties of humanity, to succeed well in their representation—'His soul is like a star, and dwells apart.' It does not 'hold the mirror up to nature,' nor catch the hues of surrounding objects; but, like a kindled furnace, throws out its intense glare and gloomy grandeur on the narrow scene which it irradiates. He has given us, in his other works, some glorious pictures of nature—some magnificent reflections, and some inimitable delineations of character: But the same feelings prevail in them all; and his portraits in particular, though a little varied in the drapery and attitude, seem all copied from the same original. His *Childe Harold*, his *Giaour*, *Conrad*, *Lara*, *Manfred*, *Cain*, and *Lucifer*,—are all one individual. There is the same varnish of voluptuousness on the surface—the same canker of misanthropy at the core, of all he touches. He cannot draw the changes of many-coloured life, nor transport himself into the condition of the infinitely diversified characters by whom a stage should be peopled. The very intensity of his feelings—the loftiness of his views—the pride of his nature or his genius, withhold him from this identification; so that in personating the heroes of the scene, he does little but repeat himself. It

would be better for him, we think, if it were otherwise. We are sure it would be better for his readers. He would get more fame, and things of far more worth than fame, if he would condescend to a more extended and cordial sympathy with his fellow-creatures; and we should have more variety of fine poetry, and, at all events, better tragedies. We have no business to read him a homily on the sinfulness of pride and uncharity; but we have a right to say, that it argues a poorness of genius to keep always to the same topics and persons; and that the world will weary at last of the most energetic pictures of misanthropes and madmen—outlaws and their mistresses!

A man gifted as he is, when he aspires at dramatic fame, should emulate the greatest of dramatists. Let Lord B. then think of Shakespeare—and consider what a noble range of character, what a freedom from mannerism and egotism, there is in him! How much he seems to have studied nature; how little to have thought about himself; how seldom to have repeated or glanced back at his own most successful inventions! Why indeed should he? Nature was still open before him, and inexhaustible; and the freshness and variety that still delight his readers, must have had constant attractions for himself. Take his Hamlet, for instance. What a character is there!—how full of thought and refinement, and fancy and individuality! ‘How infinite in faculties! In form and motion how express and admirable! The beauty of the universe, the paragon of animals!’ Yet close the play, and we meet with him no more—neither in the author’s other works, nor any where else! A common author, who had hit upon such a character, would have dragged it in at every turn, and worn it to very tatters. Sir John Falstaff, again, is a world of wit and humour in himself. But except in the two parts of Henry IV., there would have been no trace of such a being, had not the author been ‘ordered to continue him’ in the *Merry Wives of Windsor*. He is not the least like Benedick, or Mercutio, or Sir Toby Belch, or any of the other witty personages of the same author,—nor are they like each other. Othello is one of the most striking and powerful inventions on the stage. But when the play closes, we hear no more of him! The poet’s creation comes no more to life again under a fictitious name, than the real man would have done. Lord Byron, in Shakespeare’s place, would have peopled the world with black Othellos! What indications are there of Lear in any of his earlier plays? What traces of it in any that he wrote afterwards? None. It might have been written by any other man, he is so little conscious of it. He never once returns to that huge sea of sorrow; but has left it standing by itself, shoreless and unapproachable. Who else could have afforded not to have

'drowned the stage with tears' from such a source? But we must break away from Shakespeare, and come at last to the work before us.

In a very brief preface, Lord B. renews his protest against looking upon any of his plays, as having been composed 'with the most remote view to the stage'—and, at the same time, testifies in behalf of the *Unities*, as essential to the existence of the drama—according to what 'was, till lately, the law of literature throughout the world, and is still so, in the more civilized parts of it.' We do not think those opinions very consistent; and we think that neither of them could possibly find favour with a person whose genius had a truly dramatic character. We should as soon expect an orator to compose a speech altogether unfit to be spoken. A drama is not merely a dialogue, but *an action*: and necessarily supposes that something is to pass before the eyes of assembled spectators. Whatever is peculiar to its written part, should derive its peculiarity from this consideration. Its style should be an accompaniment to action—and should be calculated to excite the emotions, and keep alive the attention, of gazing multitudes. If an author does not bear this continually in his mind, and does not write in the ideal presence of an eager and diversified assemblage, he may be a poet perhaps, but assuredly he never will be a dramatist. If Lord B. really does not wish to impregnate his elaborate scenes with the living spirit of the drama—if he has no hankering after stage-effect—if he is not haunted with the visible presentment of the persons he has created—if, in setting down a vehement invective, he does not fancy the tone in which Mr Kean would deliver it, and anticipate the long applauses of the pit, then he may be sure that neither his feelings nor his genius are in unison with the stage at all. Why, then, should he affect the form, without the power of tragedy? He may, indeed, produce a mystery like Cain, or a far sweeter vision like Manfred, without subjecting himself to the censure of legitimate criticism; but if, with a regular subject before him, capable of all the strength and graces of the drama, he does not feel himself able or willing to draw forth its resources so as to affect an audience with terror and delight, he is not the man we want—and his time and talents are wasted here. Didactic reasoning and eloquent description, will not compensate, in a play, for a dearth of dramatic spirit and invention: and besides, sterling sense and poetry, as such, ought to stand by themselves, without the unmeaning mockery of a *dramatis personæ*.

As to Lord Byron's pretending to set up the *Unities* at this time of day, as 'the law of literature throughout the world,' it is mere caprice and contradiction. He, if ever man was,

is *a law to himself*—‘a chartered libertine;’—and now, when he is tired of this unbridled license, he wants to do penance within the *Unities*! This certainly looks very like affectation; or, if there is any thing sincere in it, the motive must be, that, by getting rid of so much story and action, in order to simplify the plot and bring it within the prescribed limits, he may fill up the blank spaces with long discussions, and have nearly all the talk to himself! For ourselves, we will confess that we have had a considerable contempt for these same *Unities*, ever since we read Dennis’s Criticism on Cato in our boyhood—except indeed the unity of action, which Lord Byron does not appear to set much store by. Dr Johnson, we conceive, has pretty well settled this question: and if Lord Byron chuses to grapple with him, he will find that it requires a stronger arm than that with which he puts down our Laureates. We shall only add, that when the moderns tie themselves down to write tragedies of the same length, and on the same simple plan, in other respects, with those of Sophocles and Æschylus, we shall not object to their adhering to the *Unities*; for there can, in that case, be no sufficient inducement for violating them. But, in the mean time, we hold that English dramatic poetry soars above the *Unities*, just as the imagination does. The only pretence for insisting on them is, that we suppose the stage itself to be, actually and really, the very spot on which a given action is performed; and, if so, this space cannot be removed to another. But the supposition is manifestly quite contrary to truth and experience. The stage is considered merely as a place in which any given action *ad libitum* may be performed; and accordingly may be shifted, and is so in imagination, as often as the action requires it. That any writer should ever have insisted on such an unity as this, must appear sufficiently preposterous; but, that the defence of it should be taken up by an author whose plays are never to be acted at all, and which, therefore, have nothing more than a nominal reference to any stage or locality whatever, must strike one as absolutely incredible.

It so happens, however, that the disadvantage, and, in truth, absurdity, of sacrificing higher objects to a formality of this kind, is strikingly displayed in one of these dramas—THE TWO FOSCARI. The whole interest here turns upon the younger of them having returned from banishment, in defiance of the law and its consequences, from an unconquerable longing after his own country. Now, the only way to have made this sentiment palpable, the practicable foundation of stupendous sufferings, would have been, to have presented him to the audience

wearing out his heart in exile—and forming his resolution to return, at a distance from his country, or hovering, in excruciating suspense, within sight of its borders. We might then have caught some glimpse of the nature of his motives, and of so extraordinary a character. But as this would have been contrary to one of the unities, we first meet with him led from ‘the Question,’ and afterwards taken back to it in the Ducal Palace, or clinging to the dungeon-walls of his native city, and expiring from his dread of leaving them; and therefore feel more wonder than sympathy, when we are told, in a Jeremiad of wilful lamentations, that these agonizing consequences have resulted, not from guilt or disaster, but merely from the intensity of his love for his country.

But we must now look at the *Tragedies*; and on turning again to *SARDANAPALUS*, we are half inclined to repent of the severity of some of our preceding remarks, or to own at least that they are not strictly applicable to this performance. It is a work beyond all question of great beauty and power; and though the heroine has many traits in common with the *Medoras* and *Gulnares* of Lord Byron's undramatic poetry, the hero must be allowed to be a new character in his hands. He has, indeed, the scorn of war, and glory, and priestcraft, and regular morality, which distinguishes the rest of his Lordship's favourites; but he has no misanthropy, and very little pride—and may be regarded, on the whole, as one of the most truly good-humoured, amiable and respectable voluptuaries to whom we have ever been presented. In this conception of his character, the author has very wisely followed nature and fancy rather than history. *His Sardanapalus* is not an effeminate, worn-out debauchee, with shattered nerves and exhausted senses, the slave of indolence and vicious habits; but a sanguine votary of pleasure, a princely epicure, indulging, revelling in boundless luxury while he can, but with a soul so inured to voluptuousness, so saturated with delights, that pain and danger, when they come uncalled for, give him neither concern nor dread; and he goes forth, from the banquet to the battle, as to a dance or measure, attired by the *Graces*, and with youth, joy, and love for his guides. He dallies with *Bellona* as her bridegroom—for his sport and pastime; and the spear or fan, the shield or shining mirror, become his hands equally well. He enjoys life, in short, and triumphs in death; and whether in prosperous or adverse circumstances, his soul smiles out superior to evil. The Epicurean philosophy of *Sardanapalus* gives him a fine opportunity, in his conferences with his stern and confidential adviser, *Salamones*, to contrast his own imputed and fatal vices of ease

and love of pleasure with the boasted virtues of his predecessors, War and Conquest; and we may as well begin with a short specimen of this characteristic discussion. Salemenes is brother to the neglected queen; and the controversy originates in the monarch's allusion to her.

Sard. Thou think'st that I have wrong'd the queen: is't not so?

Sale. Think! Thou hast wrong'd her!

Sard. Patience, prince, and hear me.

She has all power and splendour of her station,
Respect, the tutelage of Assyria's heirs,
The homage and the appanage of sovereignty.
I married her as monarchs wed—for state,
And loved her as most husbands love their wives.
If she or thou supposedst I could link me
Like a Chaldean peasant to his mate,
Ye knew nor me, nor monarchs, nor mankind.

Sale. I pray thee, change the theme; my blood disdains
Complaint, and Salemenes' sister seeks not
Reluctant love even from Assyria's lord!
Nor would she deign to accept divided passion
With foreign strumpets and Ionian slaves.
The queen is silent.

Sard. And why not her brother?

Sale. I only echo thee the voice of empires,
Which he who long neglects not long will govern.

Sard. The ungrateful and ungracious slaves! they murmur
Because I have not shed their blood, nor led them
To dry into the desert's dust by myriads,
Or whiten with their bones the banks of Ganges;
Nor decimated them with savage laws,
Nor sweated them to build up pyramids,
Or Babylonian walls.

Sale. Yet these are trophies
More worthy of a people and their prince
Than songs, and lutes, and feasts, and concubines,
And lavish'd treasures, and contemned virtues.

Sard. Or for my trophies I have founded cities:
There's Tarsus and Anchialus, both built
In one day—what could that blood-loving beldame,
My martial grandam, chaste Semiramis,
Do more, except destroy them?

Sale. 'Tis most true;
I own thy merit in those founded cities,
Built for a whim, recorded with a verse
Which shames both them and thee to coming ages.

Sard. Shame me! By Baal, the cities, though well built,
Are not more goodly than the verse! Say what

Thou wilt 'gainst the truth of that brief record
 Why, those few lines contain the history
 Of all things human ; hear—" Sardanapalus
 " The king, and son of Anacyndaraxes,
 " In one day built Anchialus and Tarsus.
 " Eat, drink, and love ; the rest's not worth a fillip. "

Salé. A worthy moral, and a wise inscription,
 For a king to put up before his subjects !

Sard. Oh, thou wouldst have me doubtless set up edicts—
 " Obey the king—contribute to his treasure—
 " Recruit his phalanx—spill your blood at bidding—
 " Fall down and worship, or get up and toil. "
 Or thus—" Sardanapalus on this spot
 " Slew fifty thousand of his enemies.

" These are their sepulchres, and this his trophy. "
 I leave such things to conquerors ; enough
 For me, if I can make my subjects feel
 The weight of human misery less, and glide
 Ungroaning to the tomb ; I take no license
 Which I deny to them. We all are men.

Salé. Thy sires have been revered as gods—

Sard. In dust

And death, where they are neither gods nor men.
 Talk not of such to me ! the worms are gods ;
 At least they banqueted upon your gods,
 And died for lack of farther nutriment.

Those gods were merely men ; look to their issue—
 I feel a thousand mortal things about me,
 But nothing godlike—unless it may be
 The thing which you condemn, a disposition
 To love and to be merciful, to pardon
 The follies of my species, and (that's human)
 To be indulgent to my own.'—pp. 18-21.

But the chief charm and vivifying angel of the piece is MYRRHA, the Greek slave of Sardanapalus—a beautiful, heroic, devoted, and ethereal being—in love with the generous and infatuated monarch—ashamed of loving a barbarian—and using all her influence over him to ennoble as well as to adorn his existence, and to arm him against the terrors of its close. Her voluptuousness is that of the heart—her heroism of the affections. If the part she takes in the dialogue be sometimes too subdued and submissive for the lofty daring of her character, it is still such as might become a Greek slave—a lovely Ionian girl, in whom the love of liberty and the scorn of death, was tempered by the consciousness of what she regarded as a degrading passion, and an inward sense of fitness and decorum with reference to her condition. The development of

this character and its consequences, form so material a part of the play, that most of the citations with which we shall illustrate our abstract of it, will be found to bear upon it.

Salmenes, in the interview to which we have just alluded, had driven 'the Ionian minion' from the royal presence by his reproaches. After his departure, the Monarch again recalls his favourite, and reports to her the warning he had received. Her answer lets us at once into the nobleness and delicacy of her character.

Myr. He did well,

Sard.

And say'st thou so?

Thou whom he spurn'd so harshly, and now dared
Drive from our presence with his savage jeers,
And made thee weep and blush?

Myr.

I should do both

More frequently—and he did well to call me
Back to my duty. But thou spakest of peril—
Peril to thee—

Sard.

Ay, from dark plots and snares

From Medes—and discontented troops and nations.

I know not what—a labyrinth of things—

A maze of mutter'd threats and mysteries:

Thou know'st the man—it is his usual custom.

But he is honest. Come, we'll think no more on't—

But of the midnight festival.

Myr.

'Tis time

To think of aught save festivals. Thou hast not

Spurn'd his sage cautions?

Sard.

What?—and dost thou fear?

Myr. Fear!—I'm a Greek, and how should I fear death?

A slave, and wherefore should I dread my freedom?

Sard. Then wherefore dost thou turn so pale?

Myr.

I love

Sard. And do not I? I love thee far—far more

Than either the brief life or the wide realm,

Which, it may be, are menaced; yet I blench not.

Myr.

When he who is their ruler

Forgets himself, will they remember him?

Sard. Myrrha!

Myr. Frown not upon me: you have smiled

Too often on me not to make those frowns

Bitterer to bear than any punishment

Which they may augur.—King, I am your subject!

Master, I am your slave! Man, I have loved you!

Loved you, I know not by what fatal weakness,

Although a Greek, and born a foe to monarchs—

A slave, and hating fetters—an Ionian.

And, therefore, when I love a stranger, more

Degraded by that passion than by chains '
 Still I have loved you. If that love were strong
 Enough to overcome all former nature,
 Shall it not claim the privilege to save you ?

Sard. Save me, my beauty ! Thou art very fair,
 And what I seek of thee is love—not safety.

Myr. And without love where dwells security ?

Sard. I speak of woman's love.

Myr. The very first
 Of human life must spring from woman's breast,
 Your first small words are taught you from her lips,
 Your first tears quench'd by her, and your last sighs
 Too often breathed out in a woman's hearing,
 When men have shrunk from the ignoble care
 Of watching the last hour of him who led them.

Sard. My eloquent Ionian ! thou speak'st music,
 The very chorus of the tragic song
 I have heard thee talk of as the favourite pastime
 Of thy far father-land. Nay, weep not—calm thee.

Myr. I weep not—But I pray thee, do not speak
 About my fathers or their land.

Sard. Yet oft
 Thou speakest of them.

Myr. True—true : constant thought
 Will overflow in words unconsciously ;

But when another speaks of Greece, it wounds me.

Sard. Well, then, how wouldst thou *save* me, as thou said'st ?

Myr. Look to the annals of thine empire's founder.

Sard. They are so blotted o'er with blood, I cannot.
 But what wouldst have ? the empire *has been* founded.
 I cannot go on multiplying empires.

Myr. Preserve thine own.

Sard. At least I will enjoy it.
 Come, Myrrha, let us on to the Euphrates ;
 The hour invites, the galley is prepared,
 And the pavilion, deck'd for our return,
 In fit adornment for the evening banquet,
 Shall blaze with beauty and with light, until
 It seems unto the stars which are above us
 Itself an opposite star ; and we will sit
 Crown'd with fresh flowers like——

Myr. Victims.

Sard. No, like sovereigns,
 The shepherd kings of patriarchal times,
 Who knew no brighter gems than summer wreaths,
 And none but tearless triumphs. Let us on. pp. 31-36.

The second act, which contains the details of the conspiracy

of Arbaces, its detection by the vigilance of Salemenes, and the too rash and hasty forgiveness of the rebels by the king, is, on the whole, heavy and uninteresting. Early in the third act, the royal banquet is disturbed by sudden tidings of treason and revolt; and then the reveller blazes out into the hero, and the Greek blood of Myrrha mounts to its proper office! The following passages are striking. A messenger says,

Prince Salemenes doth implore the king
To arm himself, although but for a moment,
And show himself unto the soldiers: his
Sole presence in this instant might do more
Than hosts can do in his behalf.

Sard.

What, ho!

My armour there.

Myr.

And wilt thou?

Sard.

Will I not?

Ho, there!—But seek not for the buckler; 'tis
Too heavy:—a light cuirass and my sword.

Myr. How I do love thee!

Sard.

I ne'er doubted it.

Myr. But now I know thee.

Sard. (*arming himself*)

Give me the cuirass—so: my baldric; now
My sword: I had forgot the helm, where is it?
That's well—no, 'tis too heavy: you mistake, too—
It was not this I meant, but that which bears
A diadem around it.

Sfero.

Sire, I deem'd

That too conspicuous from the precious stones
To risk your sacred brow beneath—and, trust me,
This is of better metal though less rich.

Sard. You deem'd! Are you too turn'd a rebel? Fellow!

Your part is to obey: return, and—no—

It is too late—I will go forth without it.

Sfero. At least wear this.

Sard.

Wear Caucasus! why, 'tis

A mountain on my temples.

Myrrha, retire unto a place of safety.

Why went you not forth with the other damsels?

Myr. Because my place is here.

I dare all things

Except survive what I have loved, to be

A rebel's booty: forth, and do your bravest.—pp. 85–89,

The noise of the conflict now reaches her in doubtful clamour; and a soldier comes in, of whom she asks how the king bears himself—and is answered,

Alc. Like a king. I must find Sfero,

And bring him a new spear and his own helmet.

• He fights till now bare-headed, and by far
 Too much exposed. The soldiers knew his face,
 And the foe too; and in the moon's broad light,
 His silk tiara and his flowing hair
 Make him a mark too royal. Every arrow
 Is pointed at the fair hair and fair features,
 And the broad fillet which crowns both.
 The king! the king fights as he revels!

Myr. 'Tis no dishonour—no—

'Tis no dishonour to have loved this man.

I almost wish now, what I never wish'd
 Before, that he were Grecian. If Alcides
 Were shamed in wearing Lydian Omphale's
 She-garb, and wielding her vile distaff; surely
 He, who springs up a Hercules at once,
 Nurs'd in effeminate arts from youth to manhood,
 And rushes from the banquet to the battle,
 As though it were a bed of love, deserves
 That a Greek girl should be his paramour,
 And a Greek bard his minstrel, a Greek tomb
 His monument!

Officer.

Lost,

Lost almost past recovery. Zames! Where
 Is Zames?

Myr. (solus) He's gone; and told no more than that all's lost!
 What need have I to know more? In those words,
 Those little words, a kingdom and a king,
 A line of thirteen ages, and the lives
 Of thousands, and the fortune of all left
 With life, are merged; and I, too, with the great,
 Like a small bubble breaking with the wave
 Which bore it, shall be nothing. —pp. 92-93.

Soon after, she rushes out in agony to meet the fate that
 seemed impending. The king, however, by his daring valour,
 restores the fortune of the fight; and returns, with all his train,
 to the palace. The scene that ensues is very masterly and cha-
 racteristic. He says,

'I am spent; give me a seat.

Sal. There stands the throne, Sire.

Sard.

'Tis no place to rest on,

For mind nor body: let me have a couch,

[*They place a seat.*

A peasant's stool, I care not what: so—now

I breathe more freely.

Sal.

This great hour has proved
 The brightest and most glorious of your life.

Sard. And the most tiresome. Where's my cup-bearer?
 Bring me some water.

Sal. (*smiling*.) 'Tis the first time he
Ever had such an order : even I,
Your most austere of counsellors, would now
Suggest a purpler beverage.

Sard. Blood—doubtless.
But there's enough of that shed ; as for wine,
I have learn'd to-night the price of the pure element :
Thrice have I drank of it, and thrice renew'd,
With greater strength than the grape ever gave me,
My charge upon the rebels.

(*Turning to Myrrha*.)
Know'st thou, my brother, where I lighted on
This minion ?

Sal. Herding with the other females,
Like frighten'd antelopes.

Sard. No : like the dam
Of the young lion, femininely raging,
She urged on with her voice and gesture, and
Her floating hair and flashing eyes, the soldiers
In the pursuit.

Sal. Indeed !

Sard. You see, this night
Made warriors of more than me. I paused
To look upon her, and her kindled cheek ;
Her large black eyes, that flash'd through her long hair
As it stream'd o'er her ; her blue veins that rose
Along her most transparent brow ; her nostril
Dilated from its symmetry ; her lips
Apart ; her voice that clove through all the din,
As a lute's pierceth through the cymbal's clash,
Jarr'd but not drown'd by the loud bratling ; her
Waved arms, more dazzling with their own born whiteness
Than the steel her hand held, which she caught up
From a dead soldier's grasp ; all these things made
Her seem unto the troops a prophetess
Of victory, or Victory herself,
Come down to hail us hers.

Sal. (*in retiring*.) Myrrha !

Myr. Prince.

Sal. You have shown a soul to-night,
Which, were he not my sister's lord——But now
I have no time : thou lov'st the king ?

Myr. I love

Sardanapalus.

Sal. But wouldst have him king still ?

Myr. I would not have him less than what he should be.

Sal. Well, then, to have him king, and yours, and all
He should, or should not be ; to have him *live*,
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Let him not sink back into luxury.
 You have more power upon his spirit than
 Wisdom within these walls, or fierce rebellion
 Raging without : look well that he relapse not.

Myr. There needed not the voice of Salmeneus
 To urge me on to this : I will not fail.
 All that a woman's weakness can——

Sale. Is power
 Omnipotent o'er such a heart as his :

Exert it wisely. [Exit SALMENEUS.]

Sard. Myrrha ! what, at whispers
 With my stern brother ? I shall soon be jealous.

Myr. (*smiling.*) You have cause, sire ; for on the earth there
 breathes not

A man more worthy of a woman's love—
 A soldier's trust—a subject's reverence—
 A king's esteem—the whole world's admiration !

Sard. Praise him, but not so warmly. I must not
 Hear those sweet lips grow eloquent in aught

That throws me into shade ; yet you speak truth.' p. 100-105.

The fourth act opens with Myrrha watching over the troubled sleep of her lover, and his starting from a horrid dream of Nimrod and Semiramis, which is told too much at length. The picture, however, of the female conqueror, is given with great force. He thought he was sitting at a dreary banquet with all his dead ancestors—and says to Myrrha,

Sard. In thy own chair—thy own place in the banquet—
 I sought thy sweet face in the circle—but
 Instead—a gray-hair'd, wither'd, bloody-eyed,
 And bloody-handed, ghastly, ghostly thing,
 Female in garb, and crown'd upon the brow,
 Furrow'd with years, yet sneering with the passion
 Of vengeance, leering too with that of lust,
 Sate :—my veins curdled.

Myr. Is this all ?

Sard. Upon
 Her right hand—her lank, bird-like right hand—stood
 A goblet, bubbling o'er with blood ; and on
 Her left, another, fill'd with—what I saw not,
 But turn'd from it and her. But all along
 The table sate a range of crowned wretches,
 Of various aspects, but of one expression.

Ay, Myrrha, but the woman !
 The female who remain'd, she flew upon me,
 And burnt my lips up with her noisome kisses !
 And, flinging down the goblets on each hand,
 Methought their poisons flow'd around us, till
 Each form'd a hideous river. Still she clung ;

The other phantoms, like a row of statues,
 Stood dull as in our temples, but she still
 Embraced me, while I shrunk from her, as if,
 In lieu of her remote descendant, I

• Had been the son who slew her for her incest.' pp. 110-113.

After this, there is an useless and unnatural scene with the queen, whose fondness her erring husband meets with great kindness and remorse. It is carefully, but rather tediously written; and ends, a great deal too long after it ought to have ended, by Salemenes carrying off his sister in a fit.

The force of the rebels still increasing, the king urges Myrrha to retire from the growing danger. She refuses constantly; and he rejoins,

Sard. You spoke of your abasement.

Myr. And I feel it
 Deeply—more deeply than all things but love.

Sard. Then fly from it.

Myr. 'Twill not recall the past—
 'Twill not restore my honour, nor my heart.
 No—here I stand or fall. If that you conquer,
 I live to joy in your great triumph; should
 Your lot be different, I'll not weep, but share it.
 You did not doubt me a few hours ago.

Sard. Your courage never—nor your love till now.
 I thought to have made my realm a paradise,
 And every moon an epoch of new pleasures.
 I took the rabble's shouts for love—the breath
 Of friends for truth—the lips of woman for
 My only guerdon—so they are, my Myrrha:

Kiss me. Now let them take my realm and life!
 They shall have both, but never thee!

Myr. No, never!

Man may despoil his brother man of all
 That's great or glittering—kingdoms fall—hosts yield—
 Friends fail—slaves fly—and all betray—and, more
 Than all, the most indebted—but a heart
 That loves without self-love! 'Tis here—now prove it.'

pp. 131-133.

The fifth act gives, rather languidly, the consummation of the rebellion. Salemenes is slain; and the king, in spite of a desperate resistance, driven back to his palace and its gardens. He then distributes his treasure to his friends, and forces them to embark on the river, which is still open for their escape; only requiring, as the last service of his faithful veterans, that they should build up a huge pile of combustibles round the throne in his presence-chamber, and leave him there with Myrrha

alone; and commanding them, when they had cleared the city with their galleys, to sound their trumpets as a signal of safety. We shall close our extracts with a few fragments of the final scene. This is his farewell to the troops.

Sard. My best! my last friends!

Let's not unman each other—part at once:

All farewells should be sudden, when for ever,

Else they make an eternity of moments,

And clog the last sad sands of life with tears.

Hence, and be happy: trust me, I am not

Now to be pitied; or far more for what

Is past than present:—for the future, 'tis

In the hands of the deities, if such

There be: I shall know soon. Farewell—farewell.

[*Exeunt PANIA and Soldiers.*]

Myr. These men were honest: it is comfort still

That our last looks should be on loving faces.

Sard. And lovely ones, my beautiful!—but hear me!

If at this moment, for we now are on

The brink, thou feel'st an inward shrinking from

This leap through flame into the future, say it:

I shall not love thee less; nay, perhaps more,

For yielding to thy nature: and there's time

Yet for thee to escape hence.

Myr.

Shall I light

One of the torches which lie heap'd beneath

The ever-burning lamp that burns without,

Before Baal's shrine, in the adjoining hall?

Sard. Do so. Is that thy answer?

Myr.

Thou shalt see.' pp. 162, 163.

There is then a long invocation to the shades of his ancestors; at the end of which, Myrrha returns with a lighted torch and a cup of wine—and says,

'Lo!

I've lit the lamp which lights us to the stars.

Sard. And the cup?

Myr. 'Tis my country's custom to

Make a libation to the gods.

Sard.

And mine

To make libations amongst men. I've not

Forgot the custom; and although alone,

Will drain one draught in memory of many

A joyous banquet past.

Yet pause,

My Myrrha! dost thou truly follow me,

Freely and fearlessly?

Myr.

And dost thou think

A Greek girl dare not do for love, that which

An Indian widow braves for custom?

- Sard.* Then
We but await the signal.
- Myr.* It is long
In sounding.
- Sard.* Now, farewell ; one last embrace.
- Myr.* Embrace, but *not* the last ; there is one more.
- Sard.* True, the commingling fire will mix our ashes.
- Myr.* Then farewell, thou earth !
And loveliest spot of earth ! farewell Ionia !
Be thou still free and beautiful, and far
Aloof from desolation ! My last prayer
Was for thee, my last thoughts, save *one*, were of thee !
- Sard.* And that ?
- Myr.* Is yours.
[*The trumpet of PANIA sounds without.*]
- Sard.* Hark !
- Myr.* Now !
- Sard.* Adieu, Assyria !
I loved thee well, my own, my fathers' land,
And better as my country than my kingdom.
I satiated thee with peace and joys ; and this
Is my reward ! and now I owe thee nothing,
Not even a grave. [He mounts the pile.
- Now, Myrrha !
- Myr.* Art thou ready ?
- Sard.* As the torch in thy grasp. [MYRRHA fires the pile.
- Myr.* 'Tis fired ! I come.
[*As MYRRHA springs forward to throw herself into
the flames, the Curtain falls.* pp. 164-167.

Having gone so much at length into this drama, which we take to be much the best in the volume, we may be excused for saying little of the other two. 'The Two Foscari,' we think, is a failure. The interest is lounded upon feelings so peculiar or overstrained, as to engage no sympathy ; and the whole story turns on incidents that are neither pleasing nor natural. The *Younger Foscari* undergoes the rack twice (once in the hearing of the audience), merely because he has chosen to feign himself a traitor, that he might be brought back from undeserved banishment, and dies at last of pure dotage on this sentiment ; while the Elder Foscari submits, in profound and immovable silence, to this treatment of his son, lest, by seeming to feel for his unhappy fate, he should be implicated in his guilt—though he is supposed guiltless. He, the Doge, is afraid to stir hand or foot, to look or speak, while these inexplicable horrors are transacting, on account of the hostility of one Loredano, who

lords it in the council of 'the TEN,' nobody knows why or how; and who at last 'enmeshes' both father and son in his toils, in spite of their passive obedience and non-resistance to his plans. They are silly flies for this spider to catch, and 'feed fat his ancient grudge upon.' If *they* do nothing to defeat the machinations of their remorseless foe, Marina, the wife of young Foscari, at least revenges them, by letting loose the venom of her tongue upon their hateful oppressor, which she does without stint or measure; and in a strain of vehemence not inferior to that of the old Queen Margaret in Richard III. Loredano, also, is accompanied, upon all emergencies, by a senator called Barbarigo—a sort of confidant or chorus—who comes, for no end that we can discover, but to twit him with conscientious cavils and objections, and then to second him by his personal countenance and authority. There are splendid passages, however, in this play also, though the greater part of them are foreign to its immediate business. We can afford to give but one specimen. Marina, endeavouring to reconcile her husband to his sentence of banishment, reminds him that it was by exiles that his beloved Venice was founded.

Mar. And yet you see how from their banishment
Before the Tartar into these salt isles,
Their antique energy of mind, all that
Remain'd of Rome for their inheritance.
Created by degrees an ocean-Rome;
And shall an evil, which so often leads
To good, depress thee thus?

Jac. Fos. Had I gone forth
From my own land, like the old patriarchs, seeking
Another region, with their flocks and herds;
Had I been cast out like the Jews from Zion,
Or like our fathers, driven by Attila
From fertile Italy to barren islets,
I would have given some tears to my late country,
And many thoughts; but afterwards address'd
Myself, with those about me, to create
A new home and fresh state: perhaps I could
Have borne this—though I know not.

Mar. Wherefore not?
It was the lot of millions, and must be
The fate of myriads more.

Jac. Fos. Ay—we but hear
Of the survivors' toil in their new lands,
Their numbers and success; but who can number
The hearts which broke in silence of that parting,
Or after their departure; of that malady

Which calls up green and native fields to view
 From the rough deep, with such identity
 To the poor exile's fever'd eye, that he
 Can scarcely be restrain'd from treading them?
 That melody, which out of tones and tunes
 Collects such pasture for the longing sorrow
 Of the sad mountaineer, when far away
 From his snow canopy of cliffs and clouds,
 That he feeds on the sweet, but poisonous thought,
 And dies. You call this *weakness*! It is strength,
 I say,—the parent of all honest feeling.
 He who loves not his country, can love nothing.

Mar. Obey her, then; 'tis she that puts thee forth

Jac. Fos. Ah! you never yet
 Were far away from Venice, never saw
 Her beautiful towers in the receding distance,
 While every furrow of the vessel's track
 Seem'd ploughing deep into your heart; you never
 Saw day go down upon your native spires
 So calmly with its gold and crimson glory,
 And after dreaming a disturbed vision
 Of them and theirs, awoke and found them not.' pp. 236-239.

Of 'Cain, a Mystery,' we are constrained to say, that, though it abounds in beautiful passages, and shows more *power* perhaps than any of the author's dramatical compositions, we regret very much that it should ever have been published. It will give great scandal and offence to pious persons in general—and may be the means of suggesting the most painful doubts and distressing perplexities, to hundreds of minds that might never otherwise have been exposed to such dangerous disturbance. It is nothing less than absurd, in such a case, to observe, that Lucifer cannot well be expected to talk like an orthodox divine—and that the conversation of the first Rebel and the first Murderer was not likely to be very unexceptionable—or to plead the authority of Milton, or the authors of the old mysteries, for such offensive colloquies. The fact is, that here *the whole argument*—and a very elaborate and specious argument it is—is directed against the goodness or the power of the Deity, and against the reasonableness of religion in general; and there is no answer so much as attempted to the offensive doctrines that are so strenuously inculcated. The Devil and his pupil have the field entirely to themselves—and are encountered with nothing but feeble obtestations and unreasoning horrors. Nor is this argumentative blasphemy a mere incidental deformity that arises in the course of an action directed to the common sympathies of our nature. It forms, on the contrary, the great

staple of the piece—and occupies, we should think, not less than two-thirds of it;—so that it is really difficult to believe that it was written for any other purpose than to inculcate these doctrines—or at least to discuss the question upon which they bear. Now, we can certainly have no objection to Lord Byron writing an Essay on the Origin of Evil—and sifting the whole of that vast and perplexing subject with the force and the freedom that would be expected and allowed in a fair philosophical discussion. But we do not think it fair, thus to argue it partially and *con amore*, in the name of Lucifer and Cain; without the responsibility or the liability to answer that would attach to a philosophical disputant—and in a form which both doubles the danger, if the sentiments are pernicious, and almost precludes his opponents from the possibility of a reply.

Philosophy and Poetry are both very good things in their way; but, in our opinion, they do not go very well together. It is but a poor and pedantic sort of poetry that seeks to embody nothing but metaphysical subtleties and abstract deductions of reason—and a very suspicious philosophy that aims at establishing its doctrines by appeals to the passions and the fancy. Though such arguments, however, are worth little in the schools, it does not follow that their effect is inconsiderable in the world. On the contrary, it is the mischief of all poetical paradoxes, that, from the very limits and end of poetry, which deals only in obvious and glancing views, they are never brought to the fair test of argument. An allusion to a doubtful topic will often pass for a definitive conclusion on it; and, clothed in beautiful language, may leave the most pernicious impressions behind. We therefore think that poets ought fairly to be confined to the established creed and morality of their country, or to the *actual* passions and sentiments of mankind; and that poetical dreamers and sophists who pretend to *theorise* according to their feverish fancies, without a warrant from authority or reason, ought to be banished the commonwealth of letters. In the courts of morality, poets are unexceptionable *witnesses*; they may give in the evidence, and depose to facts whether good or ill; but we demur to their arbitrary and self-pleasing summing up; they are suspected *judges*, and not very often safe advocates, where great questions are concerned, and universal principles brought to issue. But we shall not press this point farther at present. We do not doubt that Lord Byron has written conscientiously, and that he is of opinion that the publication of his sentiments will not be disadvantageous to mankind. Upon this, and upon other matters, we confess we think otherwise—and we too think it our duty to make public our dissent.

As to the question of the Origin of Evil, which is the burden of this misdirected verse, he has neither thrown any new light upon it, nor darkened the previous knowledge which we possessed. It remains just where it was, in its mighty, unfathomed obscurity. His Lordship may, it is true, have recapitulated some of the arguments with a more concise and cavalier air, than the old schoolmen or fathers; but the result is the same. There is no poetical road to metaphysics. In one view, however, which our rhapsodist has taken of the subject, we conceive he has done well. He represents the temptations held out to Cain by Satan as constantly succeeding and corresponding to some previous discontent and gloomy disposition in his own mind; so that Lucifer is little more than the personified demon of his imagination: And farther, the acts of guilt and folly into which Cain is hurried are not treated as accidental, or as occasioned by passing causes, but as springing from an internal fury, a morbid state akin to phrensy, a mind dissatisfied with itself and all things, and haunted by an insatiable, stubborn longing after knowledge rather than happiness, and a fatal proneness to dwell on the evil side of things, rather than the good. We here see the dreadful consequences of not curbing this disposition (which is, after all, perhaps the sin that most easily besets humanity), exemplified in a striking point of view; and we so far think, it is but fair to say, that the moral to be derived from a perusal of this MYSTERY is a valuable one.

After what we have said of the tenor of this piece, our readers will not expect many extracts; and indeed we have scarcely left room for them. The first interview of Lucifer with Cain is full of sublimity. The gloomy first-born of woman thus describes the appearance of the Immortal.

‘ Whom have we here?—A shape like to the angels,
 Yet of a sterner and a sadder aspect
 Of spiritual essence: why do I quake?
 Why should I fear him more than other spirits,
 Whom I see daily wave their fiery swords
 Before the gates round which I linger oft,
 In twilight’s hour, to catch a glimpse of those
 Gardens which are my just inheritance,
 Ere the night closes o’er the inhibited walls
 And the immortal trees which overtop
 The cherubim-defended battlements?
 If I shrink not from these, the fire-arm’d angels,
 Why should I quail from him who now approaches?
 Yet he seems mightier far than them, nor less
 Beauteous, and yet not all as beautiful
 As he hath been, and might be: sorrow seems
 Half of his immortality. p. 346.

After some high and mystical salutations, Cain thus expresses the longings of his proud and aspiring spirit.

' My father and my mother talk to me
Of serpents, and of fruits and trees : I see
The gates of what they call their Paradise
Guarded by fiery-sworded cherubim,
Which shut them out, and me : I feel the weight
Of daily toil, and constant thought : I look
Around a world where I seem nothing, with
Thoughts which arise within me, as if they
Could master all things :—but I thought alone
This misery was *mine*.—My father is
Tamed down ; my mother has forgot the mind
Which made her thirst for knowledge at the risk
Of an eternal curse ; my brother is
A watching shepherd boy, who offers up
The firstlings of the flock to him who bids
The earth yield nothing to us without sweat ;
My sister Zillah sings an earlier hymn
Than the birds' matins ; and my Adah, my
Own and beloved, she too understands not
The mind which overwhelms me : never till
Now met I aught to sympathize with me.' p. 351.

He then inquires of his awful visitor, what that *Death* is, in dread of which he is condemned to live—and says, *

' My father
Says he is something dreadful, and my mother
Weeps when he's named ; and Abel lifts his eyes
To heaven, and Zillah casts hers to the earth,
And sighs a prayer ; and Adah looks on me,
And speaks not.

Luc.

And thou ?

Cain. Thoughts unspeakable
Crowd in my breast to burning, when I hear
Of this almighty Death, who is, it seems,
Inevitable. I have look'd out
In the vast desolate night in search of him ;
And when I saw gigantic shadows in
The umbrage of the walls of Eden, chequer'd
By the far-flashing of the cherubs' swords,
I watch'd for what I thought his coming ; for

* It may appear a very prosaic, but it is certainly a very obvious criticism on these passages, that the young family of mankind had, long ere this, been quite familiar with the death of animals—some of whom Abel was in the habit of offering up as sacrifices ;—so that it is not quite conceivable that they should be so much at a loss to conjecture what Death was.

With fear rose longing in my heart to know
 What 'twas which shook us all—but nothing came.
 And then I turn'd my weary eyes from off
 Our native and forbidden Paradise,
 Up to the lights above us, in the azure,
 Which are so beautiful: shall they, too, die?

Luc. Perhaps—but long outlive both thine and thee.

Cain. I'm glad of that; I would not have them die,
 They are so lovely.' pp. 355, 356.

Adah, the wife of Cain, then enters, and shrinks from the daring and blasphemous speech which is passing between him and the Spirit. Her account of the fascination which he exercises over her is, however, magnificent.

'I cannot answer this immortal thing
 Which stands before me; I cannot abhor him;
 I look upon him with a pleasing fear,
 And yet I fly not from him: in his eye
 There is a fastening attraction which
 Fixes my fluctuating eyes on his; my heart
 Beats quick; he awes me, and yet draws me near,
 Nearer, and nearer: Cain—Cain—save me from him!'

pp. 361, 365.

Afterwards, she says to him—

'Thou seem'st unhappy; do not make us so,
 And I will weep for thee.

Luc. Alas! those tears!

Couldst thou but know what oceans will be shed——

Adah. By me?

Luc. By all.

Adah. What all?

Luc. The million millions—

Thy myriad myriads—the all-peopled earth—

The unpeopled earth—and the o'er-peopled Hell,

Of which thy bosom is the germ.' p. 370.

In the second act, the Demon carries his disciple through all the limits of space, and expounds to him, in very lofty and obscure terms, the destinies of past and future worlds. They have a great deal of very exceptionable talk; we cull, however, one short passage of a milder character. Lucifer says,

'Approach the things of earth most beautiful,
 And judge their beauty near.

Cain. I have done this—

The loveliest thing I know is loveliest nearest.

Luc. Then there must be delusion—What is that,
 Which being nearest to thine eyes is still
 More beautiful than beauteous things remote?

Cain. My sister Adah.—All the stars of heaven,
 The deep blue noon of night, lit by an orb

Which looks a spirit, or a spirit's world—
 The hues of twilight—the sun's gorgeous coming—
 His setting indescribable, which fills
 My eyes with pleasant tears as I behold
 Him sink, and feel my heart float softly with him
 Along that western paradise of clouds—
 The forest shade—the green bough—the bird's voice—
 The vesper bird's, which seems to sing of love,
 And mingles with the song of cherubim,
 As the day closes over Eden's walls;—
 All these are nothing, to my eyes and heart,
 Like Adah's face: I turn from earth and heaven
 To gaze on it.

Luc. 'Tis fair as frail mortality,
 In the first dawn and bloom of young creation
 And earliest embraces of earth's parents,
 Can make its offspring; still it is delusion.' pp. 398, 399.

The whole second act is employed in this extramundane excursion. He then restores the daring wanderer to his quiet home—his lovely wife and blooming infant. The last is asleep in the shade, and he thus addresses him,

'*Cain.* How lovely he appears! his little cheeks,
 In their pure incarnation, vying with
 The rose leaves strewn beneath them.

Adah. And his lips, too,
 How beautifully parted! No; you shall not
 Kiss him, at least not now: he will awake soon—
 His hour of mid-day rest is nearly over;
 But it were pity to disturb him till
 'Tis closed.

Cain. You have said well; I will contain
 My heart till then. He smiles, and sleeps!—Sleep on
 And smile, thou little, young inheritor
 Of a world scarce less young: sleep on, and smile!
 Thine are the hours and days when both are cheering
 And innocent! *thou* hast not pluck'd the fruit—
 Thou know'st not thou art naked! Must the time
 Come thou shalt be amerced for sins unknown,
 Which were not thine nor mine? But now sleep on!
 His cheeks are reddening into deeper smiles,
 And shining lids are trembling o'er his long
 Lashes, dark as the cypress which waves o'er them;
 Half open, from beneath them the clear blue
 Laughs out, although in slumber. He must dream—
 Of what? Of Paradise!—Ay! dream of it,
 My disinherited boy! 'Tis but a dream;
 For never more thyself, thy sons, nor fathers,
 Shall walk in that forbidden place of joy!' pp. 412, 413.

Adah rebukes, and tries to chase away this repining spirit, but in vain. The child now awakes to assist her; and she says,

‘ Look! how he laughs and stretches out his arms,
And opens wide his blue eyes upon thine,
To hail his father; while his little form
Flutters as wing’d with joy. Talk not of pain!
The childless cherubs well might envy thee
The pleasures of a parent! Bless him, Cain!
As yet he hath no words to thank thee, but
His heart will, and thine own too.’ p. 418.

Abel then comes and reminds his brother of their agreement to sacrifice together; to which, after some resistance, he sullenly assents; and Abel hallows his offering with a devout prayer. We have studiously avoided transcribing offensive passages; and perhaps ought not, upon that principle, to insert the address of Cain. We think, however, we may venture on it, as the least obnoxious specimen of the prevailing tone of this extraordinary drama. It is as follows,—and directed to be delivered standing erect.

‘ Spirit! whate’er or whosoe’er thou art,
Omnipotent, it may be—and, if good,
Shown in the exemption of thy deeds from evil;
Jehovah upon earth! and God in heaven!
And it may be with other names, because
Thine attributes seem many, as thy works:—
If thou must be propitiated with prayers,
Take them! If thou must be induced with altars,
And soften’d with a sacrifice, receive them!
Two beings here erect them unto thee.
If thou lov’st blood, the shepherd’s shrine, which smokes
On my right hand, hath shed it for thy service
In the first of his flock, whose limbs now reek
In sanguinary incense to thy skies;
Or if the sweet and blooming fruits of earth,
And milder seasons, which the unstain’d turf
I spread them on now offers in the face
Of the broad sun which ripen’d them, may seem
Good to thee, inasmuch as they have not
Suffer’d in limb or life, and rather form
A sample of thy works, than supplication
To look on ours! If a shrine without victim,
And altar without gore, may win thy favour,
Look on it! and for him who dresseth it,
He is—such as thou mad’st him; and seeks nothing
Which must be won by kneeling. If he’s evil,
Strike him! thou art omnipotent, and may’st,—
For what can he oppose? If he be good,

Strike him, or spare him, as thou wilt! since all
 Rests upon thee; and good and evil seem
 To have no power themselves, save in thy will;
 And whether that be good or ill I know not,
 Not being omnipotent, nor fit to judge
 Omnipotence; but merely to endure

Its mandate—which thus far I have endured.' pp. 424, 425.

The catastrophe follows soon after, and is brought about with great dramatic skill and effect. The murderer is sorrowful and confounded,—his parents reprobate and renounce him,—his wife clings to him with eager and unhesitating affection; and they wander forth together into the vast solitude of the universe.

We have now gone through the poetical part of this volume, and ought here, perhaps, to close our account of it. But there are a few pages in prose that are more talked of than all the rest; and which lead irresistibly to topics, upon which it seems at last necessary that we should express an opinion. We allude to the concluding part of the Appendix to the 'The Two 'Foscari,' in which Lord B. resumes his habitual complaint of the hostility which he has experienced from the writers of his own country,—makes reprisals on those who have assailed his reputation,—and inflicts, in particular, a memorable chastisement upon the unhappy Laureate, interspersed with some political reflections of great weight and authority. These last, at all events, we think it a duty to extract: Because they appear to us to contain, in a very short compass, and mixed up with predictions which we trust may still be disappointed, some of those great fundamental truths as to the condition and prospects of the country, which every man, not blinded by faction, ought continually to bear in mind,—and because they are expressed with a force and simplicity which may give them a chance of being read and remembered even by the most careless and impatient of our readers.

Mr Southey, Lord B. observes, after reprobating, in his fashion, the strain and tendency of his poetry,

'—calls upon the "legislature to look to it," as the toleration of such writings led to the French Revolution:—*not* such writings as Wat Tyler, but as those of the "Satanic School." This is not true; and Mr Southey knows it to be not true. Every French writer of any freedom was persecuted; Voltaire and Rousseau were exiles, Marmontel and Diderot were sent to the Bastille, and a perpetual war was waged with the whole class by the existing despotism. In the next place, the French Revolution was *not* occasioned by any writings whatsoever, but must have occurred had *no* such writers ever existed. It is the fashion to attribute every thing to the French Revolution, and the French Revolution to every thing but its real

cause. That cause is obvious—the government exacted too much, and the people could neither *give* nor *bear more*. Without this, the Encyclopedists might have written their fingers off without the occurrence of a single alteration. And the *English* Revolution—(the first, I mean)—what was it occasioned by? The *puritans* were surely as pious and moral as Wesley or his biographer? Acts—acts on the part of government, and *not* writings against them, have caused the past convulsions,—and are tending to the future.

‘ I look upon such as inevitable, though no revolutionist: I wish to see the English constitution restored and not destroyed. Born an aristocrat, and naturally one by temper, with the greater part of my present property in the funds, what have I to gain by a revolution? Perhaps I have more to lose in every way than Mr Southey, with all his places, and presents for panegyrics and abuse into the bargain. But that a revolution is inevitable, I repeat. The government may exult over the repression of petty tumults; these are but the receding waves repulsed and broken for a moment on the shore, while the great tide is still rolling on and gaining ground with every breaker. Mr Southey accuses us of attacking the religion of the country; and is he abetting it by writing lives of *Wesley*? One mode of worship is merely destroyed by another. There never was, nor never will be, a country without a religion. We shall be told of *France* again: but it was only Paris and a frantic party, which for a moment upheld their dogmatic nonsense of theo-philanthropy. The church of England, if overthrown, will be swept away by the sectarians and not by the sceptics. People are too wise, too well informed, too certain of their own immense importance in the realms of space, ever to submit to the impiety of doubt. There may be a few such diffident speculators, like water in the pale sunbeam of human reason; but they are very few; and their opinions, without enthusiasm or appeal to the passions, can never gain proselytes—unless, indeed, they are persecuted—that, to be sure, will increase any thing.’ pp. 326—328.

These are weighty and memorable words—and, we trust, they will be marked and digested as they deserve. But we pursue the quotation no farther. We think the abuse of Mr Southey, both here and in some of Lord B.’s recent poetry, by far too savage and intemperate. It is of ill example, we think, in the literary world—and does no honour either to the taste or the temper of the noble author. For the *Laureate*’s opinion on any question of politics or principle, no person certainly can entertain less respect than we do. But we conceive that the inconsistencies of his life, and the extravagance of his contradictory tenets, have long ago deprived him of all authority with reasonable men—and render his present personalities as insignificant as the earlier ones with which they may now be contrasted. For our own parts, we are far from thinking it impossible that a man of Mr Southey’s intellectual di-

mensions, should really make it a matter of conscience to atone for the sedition of his youth by the servility of his riper age. But his first excesses render his last innoxious; and his former violence, which probably suggested his present as its necessary expiation, may safely be left to neutralize its effects. A renegade, too, it should never be forgotten, has an apology for intolerance, both in his temper and his interests, which does not belong to one who has no recantations to justify;—and besides, it would have become Lord B. to have remembered, that his antagonist, whatever may be his failings, was a person of respectable talents, and, in private life, of irreproachable character.

But it is not with him, or the merits of the treatment he has either given or received, that we have now any concern. We have a word or two to say on the griefs of Lord Byron himself. He complains bitterly of the detraction by which he has been assailed—and intimates that his works have been received by the public with far less cordiality and favour than he was entitled to expect. We are constrained to say that this appears to us a very extraordinary mistake. In the whole course of our experience, we cannot recollect a single author who has had so little reason to complain of his reception—to whose genius the public has been so early and so constantly just—to whose faults they have been so long and so signally indulgent. From the very first, he must have been aware that he offended the principles and shocked the prejudices of the majority, by his sentiments, as much as he delighted them by his talents. Yet, there never was an author so universally and warmly applauded, so gently admonished—so kindly entreated to look more heedfully to his opinions. He took the praise, as usual, and rejected the advice. As he grew in fame and authority, he aggravated all his offences—clung more fondly to all he had been reproached with—and only took leave of *Childe Harold* to ally himself to *Don Juan*! That he has since been talked of, in public and in private, with less unmingled admiration—that his name is now mentioned as often for censure as for praise—and that the exultation with which his countrymen once hailed the greatest of our living poets, is now alloyed by the recollection of the tendency of his writings—is matter of notoriety to all the world; but matter of surprise, we should imagine, to nobody but Lord B. himself.

He would fain persuade himself, indeed, that this decline of his popularity—or rather this stain upon its lustre—for he is still popular beyond all other example—and it is only because he is so that we feel any interest in this discussion;—he wishes to believe, that he is indebted for the censures that have reach-

ed him, not to any actual demerits of his own, but to the jealousy of those he has supplanted, the envy of those he has outshone, or the party rancour of those against whose corruptions he has testified;—while, at other times, he seems inclined to insinuate, that it is chiefly because he is a *Gentleman* and a *Nobleman* that plebeian censors have conspired to bear him down! We scarcely think, however, that these theories will pass with Lord B. himself—we are sure they will pass with no other person. They are so manifestly inconsistent as mutually to destroy each other—and so weak, as to be quite insufficient to account for the fact, even if they could be effectually combined for that purpose. *The party* that Lord B. has offended, bears no malice to Lords and Gentlemen. Against its rancour, on the contrary, these qualities have undoubtedly been his best protection; and had it not been for them, he may be assured that he would, long ere now, have been shown up in the pages of the *Quarterly*, with the same candour and liberality that has there been exercised towards his friend Lady Morgan. That the base and the bigotted—those whom he has darkened by his glory, spited by his talent, or mortified by his neglect—have taken advantage of the prevailing disaffection, to vent their puny malice in silly nicknames and vulgar scurrility, is natural and true. But Lord B. may depend upon it, that the dissatisfaction is not confined to them,—and, indeed, that they would never have had the courage to assail one so immeasurably their superior, if he had not at once made himself vulnerable by his errors, and alienated his natural defenders by his obstinate adherence to them. *We* are not bigots, nor rival poets. *We* have not been detractors from Lord Byron's fame, nor the friends of his detractors; and *we* tell him—far more in sorrow than in anger—that *we* verily believe the great body of the English nation—the religious, the moral, and the candid part of it—consider the tendency of his writings to be immoral and pernicious—and look upon his perseverance in that strain of composition with regret and reprehension. *We* ourselves are not easily startled, either by levity of temper, or boldness, or even rashness of remark; *we* are, moreover, most sincere admirers of Lord Byron's genius—and have always felt a pride and an interest in his fame. But *we* cannot dissent from the censure to which *we* have alluded; and shall endeavour to explain, in as few and as temperate words as possible, the grounds upon which *we* rest our concurrence.

He has no priestlike cant or priestlike reviling to apprehend from us. *We* do not charge him with being either a disciple or an apostle of Satan; nor do *we* describe his poetry as a mere com-

pound of blasphemy and obscenity. On the contrary, we are inclined to believe that he wishes well to the happiness of mankind—and are glad to testify, that his poems abound with sentiments of great dignity and tenderness, as well as passages of infinite sublimity and beauty. But their general tendency we believe to be in the highest degree pernicious; and we even think that it is chiefly by means of the fine and lofty sentiments they contain, that they acquire their most fatal power of corruption. This may sound at first, perhaps, like a paradox; but we are mistaken if we shall not make it intelligible enough in the end.

We think there are indecencies and indelicacies, seductive descriptions and profligate representations, which are extremely reprehensible; and also audacious speculations, and erroneous and uncharitable assertions, equally indefensible. But if these had stood alone, and if the whole body of his works had been made up of gaudy ribaldry and flashy scepticism, the mischief, we think, would have been much less than it is. He is not more obscene, perhaps, than Dryden or Prior, and other classical and pardoned writers; nor is there any passage in the history even of Don Juan, so degrading as Tom Jones's affair with Lady Bellaston. It is no doubt a wretched apology for the indecencies of a man of genius, that equal indecencies have been forgiven to his predecessors: But the precedent of lenity might have been followed; and we might have passed both the levity and the voluptuousness—the dangerous warmth of his romantic situations, and the scandal of his cold-blooded dissipation. It might not have been so easy to get over his dogmatic scepticism—his hard-hearted maxims of misanthropy—his cold-blooded and eager expositions of the non-existence of virtue and honour. Even this, however, might have been comparatively harmless, if it had not been accompanied by that which may look, at first sight, as a palliation—the frequent presentment of the most touching pictures of tenderness, generosity, and faith.

The charge we bring against Lord B. in short is, that his writings have a tendency to destroy all belief in the reality of virtue—and to make all enthusiasm and constancy of affection ridiculous; and that this is effected, not merely by direct maxims and examples, of an imposing or seducing kind, but by the constant exhibition of the most profligate heartlessness in the persons of those who had been transiently represented as actuated by the purest and most exalted emotions—and in the lessons of that very teacher who had been, but a moment before, so beautifully pathetic in the expression of the loftiest conceptions. When a rash and gay voluntary descants, somewhat too freely, on the intoxications of love and wine, we ascribe, his excesses to the effervescence of

youthful spirits, and do not consider him as seriously impeaching either the value or the reality of the severer virtues; and in the same way, when the satirist deals out his sarcasms against the sincerity of human professions, and unmasks the secret infirmities of our bosoms, we consider this as aimed at hypocrisy, and not at mankind: or, at all events, and in either case, we consider the Sensualist and the Misanthrope as wandering, each in his own delusion—and pity those who have never known the charms of a tender or generous affection. The true antidote to such seductive or revolting views of human nature, is to turn to the scenes of its nobleness and attraction; and to reconcile ourselves again to our kind, by listening to the accents of pure affection and incorruptible honour. But if those accents have flowed, in all their sweetness, from the very lips that instantly open again to mock and blaspheme them, the antidote is mingled with the poison, and the draught is the more deadly for the mixture!

The reveller may pursue his orgies, and the wanton display her enchantments with comparative safety to those around them, while they know or believe that there are purer and higher enjoyments, and teachers and followers of a happier way. But if the priest pass from the altar, with persuasive exhortations to peace and purity still trembling on his tongue, to join familiarly in the grossest and most profane debauchery—if the matron, who has charmed all hearts by the lovely sanctimonies of her conjugal and maternal endearments, glides out from the circle of her children, and gives bold and shameless way to the most abandoned and degrading vices—our notions of right and wrong are at once confounded—our confidence in virtue shaken to the foundations—and our reliance on truth and fidelity at an end for ever.

This is the charge which we bring against Lord Byron. We say that, under some strange misapprehension as to the truth, and the duty of proclaiming it, he has exerted all the powers of his powerful mind to convince his readers, both directly and indirectly, that all ennobling pursuits, and disinterested virtues, are mere deceptions or illusions—hollow and despicable mockeries for the most part, and, at best, but laborious follies. Love, patriotism, valour, devotion, constancy, ambition—all are to be laughed at, disbelieved in, and despised!—and nothing is really good, so far as we can gather, but a succession of dangers to stir the blood, and of banquets and intrigues to sooth it again! If this doctrine stood alone, with its examples, it would revolt, we believe, more than it would seduce:—but the author of it has the unlucky gift of personating all those sweet and lofty il-

lusions, and that with such grace and force and truth to nature, that it is impossible not to suppose, for the time, that he is among the most devoted of their votaries—till he casts off the character with a jerk—and, the moment after he has moved and exalted us to the very height of our conception, resumes his mockery at all things serious or sublime—and lets us down at once on some coarse joke, hard-hearted sarcasm, or fierce and relentless personality—as if on purpose to show

‘Whoever was edified, himself was not’—

or to demonstrate practically as it were, and by example, how possible it is to have all fine and noble feelings, or their appearance, for a moment, and yet retain no particle of respect for them—or of belief in their intrinsic worth or permanent reality. Thus, we have an indelicate but very clever scene of the young Juan’s concealment in the bed of an amorous matron, and of the torrent of ‘rattling and audacious eloquence’ with which she repels the too just suspicions of her jealous lord. All this is merely comic, and a little coarse:—But then the poet chuses to make this shameless and abandoned woman address to her young gallant, an epistle breathing the very spirit of warm, devoted, pure and unalterable love—thus profaning the holiest language of the heart, and indirectly associating it with the most hateful and degrading sensuality. In like manner, the sublime and terrific description of the Shipwreck is strangely and disgustingly broken by traits of low humour and buffoonery;—and we pass immediately from the moans of an agonizing father fainting over his famished son, to facetious stories of Juan’s begging a paw of his father’s dog—and refusing a slice of his tutor!—as if it were a fine thing to be hard-hearted—and pity and compassion were fit only to be laughed at. In the same spirit, the glorious Ode on the aspirations of Greece after Liberty, is instantly followed up by a strain of dull and cold-blooded ribaldry;—and we are hurried on from the distraction and death of Haidee to merry scenes of intrigue and masquerading in the seraglio. Thus all good feelings are excited only to accustom us to their speedy and complete extinction; and we are brought back, from their transient and theatrical exhibition, to the staple and substantial doctrine of the work—the non-existence of constancy in women or honour in men, and the folly of expecting to meet with any such virtues, or of cultivating them, for an undeserving world;—and all this mixed up with so much wit and cleverness, and knowledge of human nature, as to make it irresistibly pleasant and plausible—while there is not only no antidote supplied, but every thing that might have operated in that way has been anticipated, and presented already in as strong and engaging a form as possible—but un-

der such associations as to rob it of all efficacy, or even turn it into an auxiliary of the poison.

This is our sincere opinion of much of Lord B.'s most splendid poetry—a little exaggerated perhaps in the expression, from a desire to make our exposition clear and impressive—but, in substance, we think merited and correct. We have already said, and we deliberately repeat, that we have no notion that Lord B. had any mischievous intention in these publications—and readily acquit him of any wish to corrupt the morals, or impair the happiness of his readers. Such a wish, indeed, is in itself altogether inconceivable; but it is our duty, nevertheless, to say, that much of what he has published appears to us to have this tendency—and that we are acquainted with no writings so well calculated to extinguish in young minds all generous enthusiasm and gentle affection—all respect for themselves, and all love for their kind—to make them practise and profess hardily what it teaches them to suspect in others—and actually to persuade them that it is wise and manly and knowing, to laugh, not only at self-denial and restraint, but at all aspiring ambition, and all warm and constant affection.

How opposite to this is the system, or the temper, of the great author of *Waverley*—the only living individual to whom Lord Byron must submit to be ranked as inferior in genius—and still more deplorably inferior in all that makes genius either amiable in itself, or useful to society! With all his unrivalled power of invention and judgment, of pathos and pleasantry, the tenor of his sentiments is uniformly generous, indulgent, and good-humoured; and so remote from the bitterness of misanthropy, that he never indulges in sarcasm, and scarcely, in any case, carries his merriment so far as derision. But the peculiarity by which he stands most broadly and proudly distinguished from Lord Byron is, that, beginning, as he frequently does, with some ludicrous or satirical theme, he never fails to raise out of it some feelings of a generous or gentle kind, and to end by exciting our tender pity, or deep respect for those very individuals or classes of persons who seemed at first to be brought on the stage for our mere sport and amusement—thus making the ludicrous itself subservient to the cause of benevolence—and inculcating, at every turn, and as the true end and result of all his trials and experiments, the love of our kind, and the duty and delight of a cordial and genuine sympathy, with the joys and sorrows of every condition of men. It seems to be Lord Byron's way, on the contrary, never to excite a kind or a noble sentiment, without making haste to obliterate it by a torrent of unfeeling mockery or relentless abuse, and taking pains to show how well those passing fantasies may be reconciled to a system of resolute

misanthropy, or so managed as even to enhance its merits, or confirm its truth. With what different sensations, accordingly, do we read the works of these two great writers!—With the one, we seem to share a gay and gorgeous banquet—with the other, a wild and dangerous intoxication. Let Lord Byron bethink him of this contrast—and its causes and effects. Though he scorns the precepts, and defies the censure of ordinary men, he may yet be moved by *the example* of his only superior!—In the mean time, we have endeavoured to point out the canker that stains the splendid flowers of his poetry—or, rather, the serpent that lurks beneath them. If it will not listen to the voice of the charmer, that brilliant garden, gay and glorious as it is, must be deserted, and its existence deplored, as a snare to the unwary.

There is a minor blemish, of which we meant to say something also—but it is scarcely worth while—we mean the outrageous, and, till he set the example, the unprecedented *personalities* in which this noble author indulges. We have already noticed the ferocity of his attacks on Mr Southey. The Laureate had railed at him indeed before; but he had railed ‘in good set terms;’—and, if we recollect right, had not even mentioned his Lordship’s name. It was all, in his exquisite way, by innuendo. In spite of this, we do not mean to deny that Lord B. had a right to name Mr Southey—but he had no right to say any thing of Mr Southey’s wife; and the mention of her, and of many other people, is cruel, coarse, and unhand-some. If his Lordship’s sense of propriety does not cure him of this propensity, we hope his pride may. For the practice has gone down to such imitators, as can do him no honour in pointing to him as their original. We rather think it would be better, after all, to be called the founder of the Satanic School, than the Master of the John Bulls, Beacons, and Sentinels.

ART. VI. *Report from, and Minutes of Evidence taken before, the Committee to whom the several Petitions complaining of the Depressed State of the Agriculture of the United Kingdom were referred. Ordered, by the House of Commons, to be printed, 18th June 1821.*

THE subject discussed in this Report is one of the deepest interest and importance. The distresses of the Agriculturists have attained to so alarming a height, that we believe it is now pretty generally agreed, that some measures ought, if possible, to be adopted for their relief. The experience of nearly

seven years has shown the futility of the expectations of those who supposed that the prohibitory law of 1815 would put an end to the distresses of the farmer. So far from having had any such effect, the difficulties with which the occupiers of land have to contend, are at least as great at this moment as they were either in 1814 or 1815; while, owing to the progressive diminution of their capitals, they are less able to make head against them. The Report of the Committee on the State of Agriculture sets out with a distinct admission, that the distress of the tenantry had been established by the best documentary evidence, and by the testimony of the most respectable witnesses. But prices have declined considerably even since the Report was drawn up. In 1820, the average price of wheat, in England and Wales, was 65s. 7d. a quarter, while, in the year ending March 1821, it was only 62s. 5d. The increasing pressure is also but too clearly ascertained from the distinct and well authenticated statements that have been made at the numerous public meetings recently held in different parts of England. It is stated, for example, in the Resolutions unanimously agreed to at a meeting of occupiers of land in the county of Lincoln, held at Holbeach on 31st December last, 'That the Agricultural difficulties and distresses have so increased, and are increasing, that the cultivation of the land is declining; many farmers must, it is feared, be ruined; others must leave their farms; and all are already curtailing the employ of labourers, from their inability to remunerate the usual and necessary number of hands; and thus the willing and industrious labourers are compelled either to work at inadequate wages, assisted by parochial relief, or become wholly dependent on their parishes for support.' And it is stated, in the Resolutions submitted to a meeting of the nobility, gentry, clergy, freeholders, and occupiers of land in the county of Sussex, held on the 3d January, by Mr Curteis, the member for the county, and unanimously agreed to, 'That the progressive decline in value of all productions of the soil during the last three years, has gradually destroyed the previously acquired capital of the farmer; has, by curtailing the means of pursuing the usual course of husbandry, deprived one-third of the labouring population of employment; reduced many industrious and highly deserving occupiers to pauperism; and, unless speedily arrested, must, in the opinion of this meeting, be productive of universal ruin.

'That this deplorable state of things is not confined to the occupier of the soil; through him its influence has extended to other classes; the landlord is in very many instances without his rent, the clergyman without his tithes, the tradesman without his usual business, and the mechanic without his accustomed employment.'

Resolutions, of exactly the same import, and couched in equally strong language, have been voted at public meetings of the counties of Norfolk, Suffolk, Surrey, Devon, Herts, Gloucester, &c. &c.; and an immense number of Petitions, praying for the interference of the Legislature, have been presented to Parliament from various subordinate districts of the country.

But, while we unreservedly admit that the agriculturists are at this moment in a state of unexampled distress, and that they are justly entitled to look to the Legislature for assistance, we deny that the measures, of which they recommend the adoption, would afford them any material or effectual relief. A numerous and increasing class of petitioners contend, that the only remedy is to be found in an effectual reduction of the present oppressive and exorbitant amount of taxation; and another large class, whose numbers have, however, declined considerably since last year, contend, that the imposition of additional restrictions on importation is the only sovereign and infallible panacea. If either of these remedies are to be adopted, we hope it will be the first. But although a reduction of taxation would be of the greatest advantage to the community in general, it is not easy to see how it could materially alleviate the pressure of the severe distress under which the agriculturists are now exclusively labouring. It is admitted on all hands, that this distress arises immediately and directly from the low price of corn, and the other principal articles of agricultural produce. But, however injurious taxation may be, and we believe it to be most injurious, it is utterly impossible it should ever become *a cause of low prices!* But still less can we bring ourselves to believe, that the fall of price has been owing to the inadequate protection afforded to the agriculturists by the corn-law of 1815. On the contrary, we think it may be very easily shown, that the present low price, or, in other words, that the distress in which the landlords and occupiers of land are now involved, is principally, if not entirely, caused by the restriction laid on importation in 1815; and that so long as the restrictive system is maintained, we shall have a constant alternation of oppressively high and ruinously low prices.

Were the freedom of commerce unrestricted, it is plain, that the prices of corn, and other raw products in any one country, could not, however much it had outstripped its neighbours in the accumulation of wealth and population, exceed the prices of those articles in the surrounding countries by a greater sum than what would be necessary to cover the expenses of their importation. Supposing the intercourse between the two countries were perfectly free, the prices of corn of equal quality in Great Britain and France could scarcely ever differ more than

5s. or 6s. per quarter; for the expense of conveying a quarter of wheat from the northern parts of France to London, and *vice versa*, does not exceed that sum. If, therefore, we were generally in the habit of importing a considerable supply of corn from France, our prices would usually be about 5s. or 6s. higher than the prices of that country. Even when the crops in England were unusually deficient, or when the customary supply could not be obtained from France, our prices would sustain but a very inconsiderable advance; for, if they were to rise only a little higher, it would immediately suit our merchants to import the produce of other countries in the vicinity, such as the Netherlands, the western part of Germany, Denmark, &c. If we grew nearly our own average supplies of corn, the prices of the two countries would approach almost to a level. An unusually luxuriant harvest, either in the one or the other, would occasion an instant exportation; while an unusually deficient one would occasion an instant importation. And thus, under a system of perfectly free intercourse, all injurious fluctuations in the prices of corn would be avoided. An abundant harvest would not sink them too low, nor would a scanty one raise them too high.

Nor is this mere theoretical reasoning. The weather, which is found to be unfavourable to the crops of one district, is invariably found to be favourable to those of another district, having a different soil and climate. When moist clay lands suffer from a wet season, the harvests are uniformly rendered more luxuriant in dry, rocky districts. The excess of produce in one part compensates for its deficiency in another; and, except in some anomalous cases, the average produce does not differ considerably. A failure of the crops throughout an extensive kingdom, is a calamity that does not often occur; and no single instance can be produced of a simultaneous failure of the crops throughout the commercial world. On the contrary, it is always found, that when the harvest is unfavourable in one country, it is proportionably favourable in some other quarter. In corroboration of this remark, we may mention, that in 1800, when the crops in Britain were so extremely deficient, they were exceedingly abundant in Spain; and in September of that year, wheat sold in the great market of Medina de Rio Seco, in the kingdom of Leon, for 36 reals vellon the *fanega*. (Bullion Report, App. No. 32.) But the harvest of 1803, which was so extremely productive in Britain, was so deficient in Spain, as to cause an absolute famine. 'Contagious diseases,' says Bourgoing, (Vol. II. p. 162,) 'the inclemency of the heavens, and famine, laid waste the whole country.' Above nine millions of *fanegas* of foreign corn were imported into Spain in 1804;

and, in May that year, wheat sold in Medina de Rio Seco at 155 reals the *fanega*, being an advance of more than 400 per cent. on its price four years before ! It is plain, however, that had a free corn trade been established between this country and Spain, the importation of the surplus produce of the latter in 1800, would have materially relieved the severe distresses to which the consumers in this country were then exposed, and would have prevented prices in Spain from falling so low as to be injurious to the agriculturist ; while the same effects, but in a reversed order, would have been produced in 1804. But, we have it in our power to appeal to a still more conclusive experiment. Holland, in the days of her greatest prosperity, was chiefly fed by imported corn ; and it is an undeniable fact, that prices in Amsterdam were always moderate, and fluctuated less than in any other market in Europe. Even during the convulsions of the last twenty years, and when her former commercial connexions had been almost entirely dissolved, prices continued extremely steady. * ‘ It is,’ as the Count de Verri has happily observed, ‘ a melancholy error to suppose that the nations of the earth are condemned to throw the dice, to determine which of them shall submit to famine ! ’ † There is always abundance of food in the world :—And, to enjoy a constant plenty, we have only to throw our ports open—to lay aside our prohibitions and restrictions, and to cease to counteract the benevolent wisdom of Providence.

But, while the freedom of commerce is thus sure to produce plenty, cheapness, and what perhaps is of still more consequence, steadiness of price, monopoly is ‘ the parent of scarcity, of dearth, and, above all, of uncertainty.’ By excluding ourselves from the cheapest market for any commodity, we unnecessarily raise its price ; while, by confining the consumers to the produce of one particular country, we refuse to ourselves the benefit of that wise provision of Nature for equalizing the variations of climate and of seasons.

It is admitted on all hands, that the *cost of producing corn*, must always, on an average number of years, determine its price ; and, therefore, when a country which excludes the raw produce of its neighbours happens, notwithstanding, to advance with comparative rapidity in the increase of wealth and popu-

* Que la disette des grains regne dans les quatre parties du monde ; vous trouverez du froment, du seigle, et d’autres grains à Amsterdam ; ils n’y manquent jamais.—(La Richesse de la Hollande, tome I. p. 376. 4to Ed.)

† Meditazioni Sulla Economia Politica, p. 55. Ediz. Livorno. 1772.

lation, the price of its corn must become relatively high. In every advancing country of moderate extent, soils of the highest degree of fertility speedily become insufficient to furnish the population with food, and recourse must then be had to soils of a decreasing degree of fertility, and which necessarily require a greater expenditure of capital and labour to make them yield the same supplies. But these inferior soils cannot be cultivated, unless prices rise to such a height as to indemnify the cultivators for the increased expense of their cultivation. For, if they did not rise to this height, the occupiers would not obtain the customary rate of profit from their capital, and would, in consequence, be induced to abandon their cultivation; and as, by the supposition, foreign corn is excluded, the necessary supplies would no longer be obtained, and scarcity and even famine would be speedily felt. Now, suppose that tillage is thus gradually extended over poorer soils, and that prices continue advancing until they have become equal to *double* or *triple* the prices of the surrounding countries, and let us endeavour to ascertain what would then be the effect of variations in the harvests. Is it not clear to demonstration, that, whatever might be the amount of taxation, an unusually luxuriant crop would, in the circumstances supposed, be productive of the most disastrous consequences to the farmer? It must be recollected, that a comparatively small excess or deficiency of the usual supply of the prime necessities of life, causes a very great fluctuation of prices. If the population be, in ordinary years, adequately fed, whatever increased supply may be thrown on the market, when the harvest is unusually productive, does not go so much to increase consumption, as to cause an absolute reduction of price.* But, in the case of a country whose *average* prices are *twice* or *thrice as high* as the *average* prices of other countries, it is plain, that when a luxuriant crop occurs, its farmers must be quite unable to export a single bushel of their surplus produce until prices have *sunk more than cent. per cent. below their ordinary level*; that is, below the actual expense of producing corn on the worst lands under cultivation! The destruction of agricultural capital, and the misery that such a sudden and excessive fall of prices must occasion among the occupiers of land, is too apparent to require illustration. And if two or three such harvests should follow in succession, the ruin of a great proportion of the occupiers of land would be completed.

But this is not really a hypothetical case. The distresses of the agriculturists of Great Britain, at this moment, are a con-

* This principle is ably illustrated in Mr Tooke's Evidence in the Appendix to the Report.

sequence of those very circumstances whose operation we have endeavoured to trace. During the late war, we engrossed almost the whole commerce of the world. The produce of the East and of the West was at our sole disposal; and the nations of the Continent, deprived of the raw materials of many species of manufactured commodities, were obliged to import them in their finished state, and also their colonial products, notwithstanding the prohibitions to the contrary, from England. The number of our people was increased proportionably to the rapid and unprecedented increase of our commerce and manufactures; while the increased rate of freight and insurance occasioned by the depredations of the enemy's cruisers, the restrictive regulations of the French Emperor, and the law enacted in 1804, which prohibited the importation of foreign corn for home consumption, unless when the home price exceeded 63s. a quarter, all contributed to render us almost entirely dependent on our own resources for supplies of corn. In consequence, tillage received a forced and unnatural encouragement. Lands of a very inferior degree of fertility, and which required an immense outlay of capital and labour, were made to produce corn. Marshes were drained, wastes and commons were enclosed and cultivated. The increase of prices kept pace with the extension of cultivation. They necessarily rose in proportion to the increased difficulties experienced in supplying the increased demand. And the average price of wheat in England and Wales, in the five years ending with 1814, amounted to more than *double* its average price in the five years ending with 1794; and to more than double its average price in every other country of the world!

This extraordinary extension of tillage and rise of prices would, but for the interference of the Legislature, have ceased with the artificial circumstances which gave rise to it, or with the renewal of the intercourse with the Continent. But this fall of prices would have had two consequences—it would have occasioned the loss of a considerable portion of that capital which had been expended on the improvement of the poorer soils, and which it might have been impossible to withdraw from them—and it would also have been attended with a *fall of rent*. The first of these consequences is, without any illustration, sufficiently obvious, and a few words will serve to render the other equally so. Rent consists of the difference between the produce, or the price of the produce, obtained from the best and the worst soils under cultivation; and the greater that difference is, or, which is the same thing, the farther cultivation is extended, the greater, of course, must be the amount of rent,

If the very best soils only were cultivated, no rent could be paid; but when soils of the second quality are cultivated, then, as there cannot be two rates of profit to the actual cultivator, the excess of produce obtained from lands of the first quality becomes rent; and, for the same reason, when lands of the third quality are cultivated, rent is paid for those of the second quality, at the same time that the rent of the lands of the first quality is proportionably augmented. To set this principle in a clearer point of view, let us suppose that lands of the qualities Nos. 1, 2, 3, 4, &c. yield respectively, with the same expenditure of capital and labour, 100, 90, 80, 70, &c. quarters. Then it is plain that, as soon as population has increased to such an extent as to render the cultivation of land of the *second* quality necessary, it will be indifferent to a farmer whether he pays a rent of 10 quarters for the land of the first quality, or cultivates the second without paying any rent. And, in like manner, when the farther increase of population has rendered it necessary to have recourse to lands of the *third* quality, it will be equally indifferent to him whether he pays a rent of 20 quarters to the proprietor of the best land, or of 10 to the proprietor of the second land, or cultivates the third quality of land free of all charge on account of rent. Thus, it appears that, whenever cultivation is extended over inferior lands, rents rise; and that, on the other hand, whenever they are thrown out of cultivation, rents fall. It was plainly, therefore, the interest of the landlords to endeavour to maintain prices at such a forced elevation as would prevent the cultivation of the inferior lands from being relinquished, and their rents reduced. And, with the view of accomplishing this object, and also, as they affirmed, with the view of rendering us independent of foreign supplies, they almost unanimously concurred in pressing the adoption of the Corn Law of 1815—a law which prohibits the consumption of foreign wheat until the home price has reached 80s. a quarter, which is about double the average price of corn in France, and most other countries of Europe.

But a very slight acquaintance with the most obvious principles of economical science, would have taught the agriculturists that this law could not effect the object they had in view. To maintain the prices of any particular country at a forced elevation, it is necessary, not only that foreign corn should in certain circumstances be excluded, but *that its markets should never be overloaded with corn of its own growth*. For, it is clear, according to the principles we have already explained, that, if the supply should, in ordinary years, be sufficient to support the population, it must, in an unusually productive

year, be more than sufficient for that purpose; and it is equally clear that, in the event of such a case occurring, its merchants could not export any portion of its surplus produce until prices had fallen below the level of the surrounding countries. Now, this was the precise situation of this country at the return of peace. Agriculture had been so far extended, previously to the opening of the Dutch ports in 1814, as to furnish an adequate supply for the home consumption of the country. The Records of the Customhouse for 1813 were unfortunately destroyed by fire; but, in 1811, when the paper price of corn amounted to 94s., and its bullion price to 74s., the value of the corn exported exceeded the value of the corn imported by about 400,000*l.*; and, in 1812, when the paper price of corn was 125s., and its bullion price 98s., the exports exceeded the imports by about 300,000*l.* We should mistake, however, if we supposed from this statement that we then raised *more* corn than was actually required for the home demand, or that we sent the excess to a profitable market. The excess of exports in these years was not a consequence of any regular exportation, but of shipments to the Peninsula, on account of the British troops employed there, and ought not, therefore, to be taken into account. But when the supply was thus nearly proportioned to the demand, it was plainly impossible, although no foreign corn had been permitted to enter our ports, except when the home price exceeded the medium price of 1811 and 1812, or even although it had been altogether excluded, that prices could be constantly maintained at this elevation. To prevent a fall of prices, it would have been necessary, not only that Parliament should have passed a law for the partial or total exclusion of foreign corn, but that it should also have adopted the Dutch plan, and enacted, that, *whenever we were cursed with a luxuriant harvest, the excess of produce should be destroyed, and prevented from overloading the markets!* Without the adoption of some such efficient system as this, it was quite obvious that the first luxuriant crop would sink prices; and that it was out of the question to attempt relieving the market by exportation, until they had sunk to about a half of what was reckoned the lowest growing price.

This principle appears so self-evident, and so indisputable, that we have no hesitation about laying it down as an incontrovertible position, that although the importation of foreign corn from 1813 to the present moment had been completely prevented, the condition of the farmer would not have been one jot more prosperous. It is not the introduction, but the exclusion of foreign corn, that has involved him in misery. Nine-tenths

of the present agricultural distress may be clearly traced to the operation of the protecting law, as it has been jocosely termed, of 1815. The average price of wheat in England and Wales, in 1814, was 74s. a quarter; and in 1815, it had fallen to 64s. But as these prices would not indemnify the occupiers of the poor lands which had been brought under tillage during the high prices, they were gradually relinquishing their cultivation. A considerable portion of them were converted into pasture; rents were generally reduced; and wages had begun to decline: But the Legislature having prohibited the importation of foreign corn, the operation of this natural principle of adjustment was unfortunately counteracted, and the price of 1816 rose to 75s. 10d. This rise was, however, insufficient to occasion any new improvement; and, as foreign corn was now excluded, and large tracts of bad land had been thrown out of cultivation, the supply was so much diminished, that, notwithstanding the increase in the value of money, prices rose in 1817 to 94s. 9d., and, in 1818, to 84s. 1d. These high prices had their natural effect. They revived the drooping spirits of the farmers, who imagined that the corn law was at length beginning to produce the effects anticipated from it, and that the halcyon days of 1812, when wheat sold for 125s. a quarter, were about to return! But this prosperity carried in its bosom the seeds of future mischief! The increased prices necessarily occasioned a fresh extension of tillage; capital was again applied to the improvement of the soil; and the supply of corn being thus augmented, prices fell, in 1819, to 73s.; and, owing to the abundant harvests of the two last years, they fell, in 1820, to 65s. 7d., and have now sunk so low as 49s. 3d.; at least, such was the average price of England and Wales for the week ending January 19. 1822!*

* We subjoin, from a Parliamentary paper, printed 7th March 1821, an official account of the prices of wheat, from 1791 to 1820, both inclusive.

Year.	s.	d.	Year.	s.	d.	Year.	s.	d.
1791	47	2	1801	118	3	1811	94	6
1792	42	11	1802	67	5	1812	125	5
1793	48	11	1803	56	6	1813	108	9
1794	51	8	1804	60	1	1814	73	11
1795	74	2	1805	87	10	1815	64	4
1796	77	1	1806	79	0	1816	75	10
1797	53	1	1807	73	3	1817	94	9
1798	50	3	1808	79	0	1818	84	1
1799	67	6	1809	95	7	1819	73	0
1800	113	7	1810	106	2	1820	65	7

It is certain, too, that this extraordinary fall has been in no degree owing to the importation of foreign corn. The imports of 1819 did not amount to *half a million* of quarters, or to *one-eightieth* part of the consumption; in 1820, only a few thousand quarters of *oats* were imported; and, in 1821, no corn of any description was imported.

It is thus demonstrably certain, that the present agricultural distress is not of a nature that can possibly be alleviated by throwing additional obstacles in the way of importation. Prohibitory enactments deceive the agriculturist, and flatter him with expectations of relief which they will never be able to realize. Had the corn trade been free, the prices of 1817 and 1818 could not have been so high; and as rents and wages would have been proportionably reduced, the abundant harvests of the two last years, instead of being productive only of disaster to the farmer, would, by enabling him to export to other countries, have redounded as much to his advantage as to that of the other classes of the community. It is incontrovertibly true, that *the higher the limit at which the importation of foreign corn is fixed, the greater and more destructive will be the fluctuation of prices.* Had importation in 1817 and 1818 been prohibited until the home price reached 100s., it is nearly certain that the average price of these years would have been at the very least 110s. or 120s. But this excessive price, by attracting additional capital to agriculture, and consequently increasing still farther the supplies of corn, would have sunk the present prices still lower. They could hardly, on this hypothesis, have exceeded 35s. or 40s. a quarter.

Most of the speakers at the late agricultural meetings, and the authors of some of the innumerable pamphlets that have of late appeared on this question, contend that prices will fall still lower, and that they will ultimately settle nearly at the same level with those of the neighbouring Continental States. Were the restrictive system abolished, this would certainly be the case; but it is the height of error to suppose that prices can continue at this reduced rate so long as it is maintained. In a country deprived of the inestimable advantage of a free corn trade, prices cannot remain stationary, either at a high or a low level. If they were to continue at their present rate, it would be an unanswerable proof that the complaints of the agriculturists are entirely unfounded, and that the present prices are sufficient for their remuneration. If this be not the case—if the present prices be not adequate to indemnify the cultivators of the worst soils for their expenses, and also to yield them the customary rate of profit on the capital they employ, they will abandon their cul-

tivation; and, as foreign corn is excluded until the home price reaches 80s., the diminished supply will certainly occasion a rise of prices. There is no doctrine in economical science, or in any other science, better established than that which teaches, *that production must cease whenever its expenses are no longer paid.* And those who contend that the present depression will continue, notwithstanding the restraints on importation, must be prepared to show, either that a farmer will continue to raise crops when the price for which he sells them does not pay the cost of their production, or that the existing prices are abundantly high; that is, sufficient to yield the cultivators of the worst land the ordinary rate of profit! But it is not possible that, in the actual state of our markets, corn should be profitably raised from the poor soils that were forced into cultivation during the high prices; and, if it cannot be raised with a profit, it will not be raised at all. We admit, indeed, that the *first* effect of a fall of prices, is to act rather as an inducement to the farmers to plough more land. They naturally endeavour to compensate for the lower value of their crops, by an increase of their quantity. This, we have reason to think, was the case pretty generally last year; and it will perhaps be the case in the present year. But this is a remedy which aggravates the disease, and which very soon exhausts itself. Extended tillage, by further overloading the markets, occasions a greater reduction of price, and, consequently, a greater destruction of agricultural capital; and thus never fails in the end to drive larger tracts of inferior land out of cultivation. It is, therefore, clear to demonstration, that, if we adhere to the prohibitive system, the present depression *cannot continue.* But the longer it does continue, the greater will be the loss of agricultural capital, and the greater ultimately will be the rise of prices. In a country in the situation of Great Britain, two or three luxuriant crops are the certain forerunners, not of scarcity only, but of positive famine!

Much has lately been said, and justly too, in reprobation of the flagitious attempts which have been made to exasperate the different classes of society against each other. But we would beg leave to ask, whether it is possible to conceive, or for human ingenuity to devise, a system better calculated than the Corn Laws to have that effect? These laws have set the interests of the landlords and farmers in direct opposition to the interests of every other class. An agriculturist has now no chance of getting rich otherwise than by the distresses of his fellow-citizens. But the Corn Laws have not merely generated such a division of interests as is altogether incompatible with

the safety of the State. We are not liable to the charge of exaggeration—we do nothing more than state the plain matter of fact, when we affirm, that they have actually turned the bounty of Providence into a curse! Formerly, abundant harvests were the harbingers of universal gladness—a blessing to the farmer, who participated in the general joy, aware that any surplus over what was necessary for home consumption, would meet with an advantageous sale abroad, and that his accustomed profits, instead of being diminished, would be increased. How widely different is the case now! How melancholy the change! When the harvest is unusually productive, prices immediately fall; but the farmer is unable to export the smallest quantity until they have fallen 100 or 150 per cent. below the cost of production. Plenty is to him the precursor of poverty, bankruptcy, and ruin!

But it must not be supposed that this fluctuation—that this alternation of high and low prices, of famine and excess, which is inherent in the very nature of the prohibitive system—is injurious to the agriculturists only. Fluctuations are, if possible, still more injurious to the other classes of society. They have no redeeming quality about them; they are productive only of pure and unmixed evil. Though wages do not vary with every slight variation in the price of corn, yet when prices fall very low, as they are always sure to do so long as we act on the restrictive system, whenever the crop is unusually abundant, wages always experience a considerable reduction. This arises from two causes; *first*, from the reduced price of corn, the main regulator of wages; and, *second*, from the diminished demand for agricultural labourers. But low prices cannot continue; for, as we have shown, the rapid destruction of farming capital which they occasion, and the diminished cultivation of bad land, by lessening the supply, will infallibly raise them *above* their proper level. While they are thus elevated, the farmer having succeeded during the low prices in getting his rent, wages, and other expenses reduced, will obtain unusually high profits; this, however, as we have also shown, by attracting fresh capital to agriculture, will again depress prices, and involve the farmer in new misery! But it is evident, that all the advantage gained by the farmer during the high-priced years, of this ascending and descending progression, must have been gained at the expense of the other classes. It is in truth a mere shifting of distress from the shoulders of the agriculturist to those of the consumers of his produce. ‘The labourer,’ says Colonel Torrens, who has illustrated this subject with great skill and ingenuity, ‘whose wages had, during the depression of the mar-

'kets, gradually settled down to the level of his subsistence, must, when the produce of land recovers its value, be left without the means of procuring the necessaries of life. Pauperism, with its train of degradation, misery, and vice, will thus be increased to a frightful extent. In this state of things, wretchedness, disease, and death, will begin to thin the population, and to withdraw the supply of labour, until wages regain their natural level. Even when, by this painful process, the money wages of labour have been adjusted to the price of the necessaries of life, the evil will not cease; but, on the contrary, the miserable series will recommence. Years of abundance must return; and these, with the extended tillage occasioned by the high prices, will lower the markets, from the point at which foreign corn can be introduced, to the point at which superfluity can be removed. Hence, while the great reduction in the value of the produce of land again proves destructive of agricultural capital, and diminishes cultivation, it will give an impulse to population, lower wages once more, and lay the foundation of a frightful renewal of pauperism and misery, when a deficiency in the home supply of corn shall recur.' (*Letter to Lord Liverpool*, p. 13.)

And yet, miserable as the present system undoubtedly is, it is decidedly preferable to that which Mr Webb Hall, Secretary of the Board of Agriculture, and the other wise persons who manage the affairs of the agriculturists, wish to have organized in its stead. These gentlemen actually laid before the Committee of the House of Commons a proposal, that, although our crops were utterly to fail, and famine to be stalking with giant strides throughout the land, the following duties should be rigidly levied on the undermentioned articles of foreign produce, when imported, viz.—

'Wheat, a permanent duty, whatever the price may be, of	40s. per qr.
'Meal, the like	10s. per cwt.
'Flour	1s. per cwt.
'Rye,	26s. 6d. per qr.
'Oats,	13s. 6d. per qr.
'Peas,	26s. 6d. per qr.
'Beans,	26s. 6d. per qr.
'Barley, Bear, or Bigg,	20s. per qr.
'Wool,	1s. per lib.
'Flax,	20s. per cwt.
'Hemp,	15s. per cwt.
'Hides,	2d. per lib.

• Tallow,	-	-	-	-	-	20s. per cwt.
• Seeds,	-	-	-	-	-	28s. per cwt.
• Butter,	-	-	-	-	-	56s. per cwt.
• Cheese,	-	-	-	-	-	37s. 4d. per cwt.
• Poultry,	33½ per cent.	<i>ad valorem</i> , according to price current.				
• Pears,	-	-	-	-	-	7s. per bushel.
• All things, the produce of the soil, not enumerated,	38½ per cent.	<i>ad valorem</i> .				

This monstrous proposal was very properly scouted by the Committee; but, as several petitions have since been presented to the House decanting on its virtues, and recommending its adoption as the only means by which effectual relief can be afforded to the agriculturist, we shall devote a few words to the examination of what we should otherwise have considered as totally unworthy of the slightest notice. Let us suppose, then, that this proposal is adopted by Parliament, and let us endeavour to ascertain what would be its probable effects. We believe we shall be very near the truth, if we take the average price for which corn could be purchased in the Continental markets, for the supply of this country in ordinary years, at 45s. a quarter; and, averaging the expenses of importation at 10s., we shall have 55s. as the lowest price for which Continental corn could, in average seasons, be disposed of in Britain.* Now, if we add to this sum the fixed duty of 40s. a quarter, recommended by Mr Hall and his coadjutors, no foreign corn, it is plain, could ever enter into our markets until the home price reached 95s. a quarter; that is, until prices had become nearly as high as they were during the scarcity of 1800 and 1801! It is unnecessary, we think, to add one word more, in order to demonstrate the absurdity of such a proposal. No government which could be so infatuated as to attempt to levy a duty of 40s. a quarter on foreign corn in a period of scarcity would be permitted, or would deserve, to exist for a single week. But suppose this insane project were adopted, and that the government were disposed, and were strong enough, to starve their subjects, rather than allow them to eat corn which had not paid a prohibitory duty, would the situation of the agriculturists be at all improved in consequence? We confidently answer, that it would not; and that, far from being improved, it would be rendered much worse than it is at this moment. The adoption of this measure would have nearly the

* For an account of the prices of corn in foreign countries, see the article Corn Laws and Trade in the Supplement to the Encyclopædia Britannica, and the authorities there quoted.

same effect as if the limit at which foreign corn can now be imported were raised from 80s. to 95s. or 100s. But the higher we raise the limit at which foreign corn can be introduced into our markets, the greater will be the fluctuation of prices. If this system were adopted, and if the crops were for two or three seasons rather deficient, prices would rise to the limit of importation, or higher; and there would, in consequence, be a powerful inducement to vest additional capital in agriculture. The increased supplies of corn that would thus be brought to market, would certainly, in the end, sink prices. But as no quantity of corn could then be exported until prices had fallen from a much higher elevation to the same level at which exportation can *now* take place, the depression of the market would be proportionably injurious, and would involve the farmers in still greater misery.

Some of the more sober of the agriculturists seem latterly to have become ashamed of Mr Webb Hall's infallible recipe, and propose that power should be given to the Privy Council to allow the importation of corn *duty free*, whenever they apprehend a scarcity¹ But surely the sustenance of the great mass of the people, is the very last thing with which Ministers should be allowed to tamper. By what hitherto undiscovered *tests* are they to determine whether the crop is, or is not, deficient? If they make the attempt, they must, at all events, wait till after harvest; and if they should then decide that the ports were to be thrown open, they would either aggravate or create the very evil they were intending to relieve. The declaration of the Privy Council would cause an immediate rise of prices; and the circumstance, of the ports on the Baltic and the Elbe being inaccessible for the greatest portion of every winter, by preventing, or at least retarding importation, would expose the country to all the evils of an apprehended, or, it might be, a *real* scarcity. A system of this kind would hold out to the farmer the prospect of sufficient protection against foreign competition, and to the merchant the prospect of an occasional freedom of trade. But it would cheat and delude them both. By giving unnecessary alarm, and by factitiously aggravating all the evils of a real scarcity, it would have the effect of introducing a much larger quantity of foreign corn than would otherwise have been imported, and would, therefore, necessarily occasion a proportionably great depression of prices, when either the panic had gone off, or the scarcity had been relieved. Such a system would add the blunders of Ministers, and the visionary terrors, groundless apprehensions, and panics by which the public are so liable

to be influenced in matters of this kind, to the other causes of fluctuation involved in the prohibitive system. Were it adopted, it would be impossible for any individual, however sagacious, and however well-informed, to form even a probable estimate of what might be the rate of prices three or four months hence. The Committee of the House of Commons have justly said, that the existing regulations 'baffle the calculations, and unsettle the transactions, both of the grower and dealer at home.' And if such be the uncertainty at present, we may easily conjecture what it would be were it left to the pleasure of the Privy Council to open and shut the ports, to proclaim that the crop of one season was abundant, and that of another deficient! Every agricultural, and every commercial undertaking, would then be reduced to a mere lottery—to a lottery, however, in which there would be ten blanks for one prize.

In the early part of 1814, a series of Resolutions were voted by the House of Commons, by which duties, varying according to the state of the prices in the home market, were to be imposed on importation. Thus, foreign wheat was to be completely excluded, until the home price reached 64s. a quarter, and was then allowed to be imported on paying a duty of 24s. a quarter; when the home price rose to 65s., the duty was to fall to 23s.; when it rose to 66s., the duty was to fall to 22s.;—and so on till the home price reached 86s., when the duty was to be reduced to 1s., at which sum it was to remain stationary. The bill founded on these Resolutions was afterwards abandoned by the House; but, had it been adopted, it would not certainly have been at all preferable to the existing system. A duty of 16s. a quarter, when the home price is 70s., would unquestionably operate as a total prohibition of importation; and a duty of 11s., when the home price is 75s., would, in all ordinary cases, have nearly the same effect. The Bill of 1814 was avowedly intended to keep the home price up to about 80s. Had it been passed into a law, it would, equally with the present regulations, have precluded all importation in years of a fair average crop. No foreign corn would have been introduced except in seasons when the home supply was very deficient; and the prices in ordinary years being factitiously elevated, to the same extent as at present, above the common level of the prices of surrounding countries, the farmers would have found it quite as impossible to export their surplus produce in years of unusual plenty. Fluctuation of price is an inseparable concomitant of the restrictive system; and it is an idle and a vain attempt to endeavour, by framing a set of complex regulations, to get rid

of it. * Notwithstanding his prejudices in favour of this system, Mr Malthus is forced to admit that this is its necessary result. 'The whole effect of restrictions on importation,' he observes, 'is to stint the supply of the general market, and to raise, not to lower, the price of corn. Nor is it in their nature permanently to secure what is of more consequence, *steadiness of price*. During the period, indeed, in which the country is obliged regularly to import some foreign grain, a high duty upon it is effectual in steadily keeping up the price of home corn, and giving a very decided stimulus to agriculture. But as soon as the average supply becomes equal to the average consumption, this steadiness ceases. A plentiful year will then occasion a sudden fall; and, from the average price of the home produce being so much higher than in the other markets of Europe, such a fall can be but little relieved by exportation. It must be allowed, that a *free trade in corn would, in all ordinary cases, not only secure a cheaper, but a more steady supply of grain.*'—(Observations on the Corn Laws, p. 25.)

The difficulties we have frequently experienced in importing foreign corn in years of scarcity, have been studiously exaggerated by the advocates of the restrictive system. The truth is, however, that these difficulties have resulted almost entirely from the perverse nature of our own policy. Perpetually fluctuating between bounties, restrictions, and prohibitions—between exclusion when the home price is 79s. 11½d., and admission when it is 80s.—no foreign country can ever calculate on our continuing to import their corn. We may buy a million of quarters to-day; but we shall perhaps buy no more for a couple of twelvemonths. If our demand was steady—if we regularly imported, as we should do were the ports thrown open, additional supplies would be raised for our markets; foreign prices would be raised, and farmers and landlords would be interested in procuring us whatever quantity of corn we might require. But, while the restrictive system is maintained, we must always enter the foreign market as strangers, and never as regular customers. Our orders may be expected, but they cannot be reckoned upon; and hence, whatever supplies we

* It is reported that the Agricultural Committee, now sitting, mean to recommend the adoption of a graduated scale of duties nearly the same with that proposed in 1814! This will merely make bad worse. We supposed the *regulating mania* had been on the wane; but, if this report be well founded, it will show that we have been entirely mistaken.

may procure, being withdrawn from the *ordinary stock*, foreign prices are speedily raised, and the home prices are, in consequence, allowed to attain an excessive height.

There is not the least chance, were a free corn trade once established, that it would be violently put an end to. When one nation has been for a series of years in the habit of importing corn from another, it must have exported some more acceptable produce as an equivalent. The farmers of the corn-growing country will, after this commerce has been once established, calculate as much upon the demand of the importing country, as on that of their own citizens. They will cultivate an additional quantity of land, raise larger crops, and consequently pay higher rents, solely because they are assured of this vent for their produce. The benefits of this intercourse are, therefore, reciprocal; and the corn-growers, as much as the corn-buyers, are interested in a continuance of the traffic, and would suffer as much by its cessation. ‘When we consider,’ says Mr Ricardo, ‘the value of even a few weeks consumption of corn in England, no interruption could be given to the export trade, if the Continent supplied us with any considerable quantity of corn without the most extensively ruinous commercial distress—distress which no sovereign, or combination of sovereigns, would be willing to inflict on their people; and, though willing, it would be a measure to which, probably, no people would be disposed to submit. It was the endeavour of Bonaparte to prevent the exportation of the raw produce of Russia, more than any other cause, which produced the astonishing efforts of the people of that country against the most powerful force, perhaps, ever assembled to subjugate a nation.’—(*Essay on the Profits of Stock*, p. 29.)

It appears, therefore, that there is but one method of constantly procuring an adequate supply of corn, and of avoiding those ruinous fluctuations of prices which are inherent in the prohibitive system, and which, when they occur in a highly populous and manufacturing country like England, not only compromise the fortunes and the means of existence of many individuals, but deeply endanger the safety and tranquillity of the State. We must relinquish the restrictive system, and gradually recur to the *sound principle of a FREE TRADE*. Every thing else is downright quackery and delusion. If we continue to support the prohibitory system, we shall most unquestionably continue to be subjected to the same alternation of high and low prices, we have experienced during the last six years. At one time the farmers, and at another time the consumers of their produce, will be involved in the extreme of misery; and the

process of degradation will continue until the capital of both shall have been destroyed, or forced to other countries—until all classes, both high and low, shall have been sunk below the level of what was originally lowest. It is true that the establishment of a free trade in corn, that is, the granting liberty freely to import foreign corn on payment of a duty equivalent to the amount of those taxes, if there be any such, as can be shown to fall exclusively on the producers of corn in this country—would have the effect of preventing the future cultivation of a considerable quantity of inferior land. This, however, is the *whole* extent of the inconvenience that it would occasion. The rent of the superior land would, as we have already shown, be reduced also; but its *produce*, and consequently the public wealth, would not be in the least diminished. Hard, therefore, as the case may appear, it would be infinitely better that the fixed capital which cannot be withdrawn from inferior lands should be sacrificed, than that the agriculturists in general should be exposed to ruinous fluctuations of prices, and the consumers obliged to pay a monopoly price for their food, in order to save a few landlords and farmers for a few years from the consequences of their own improvident speculations—consequences which will ultimately overtake them in spite of all that can be done to the contrary. It was not contended when the steam engine, or when Sir Richard Arkwright's cotton-mill was introduced, that they should not be employed, because the old clumsy machinery would thereby be superseded, and the capital vested in it lost. No such ridiculous notion as this was ever entertained; but, in what respect would it have been more absurd to have kept the old cotton machinery in employment, in preference to the newer and more powerful machinery, than to persist in raising produce from a poor soil at an immense expense, when we may obtain plentiful supplies, and at a much cheaper rate elsewhere? Why should not the most economical processes be followed in the raising of corn, as well as in the raising of cotton? If an expenditure of 1000*l.* would suffice to manufacture cottons or hardware at Glasgow or Birmingham, that would exchange for 400 or 500 quarters of Polish or American corn; and if the same sum, applied directly to the tillage of the poor soils now under cultivation in this country, would not produce more than 200 or 250 quarters, what folly can be greater than to continue such a disadvantageous production, and not to buy corn from foreigners with our manufactured goods?

It must be recollected, that although our ports were thrown open to the importation of foreign produce, the expense attending its importation would always give the home growers an ad-

vantage of 12 or 15 per cent. over those of other countries; and would not this be a sufficient protection?—would not this be a sufficient security that foreigners could never import more corn than was absolutely necessary to prevent prices becoming ruinously high? The prohibitory system is injurious to the tenantry; and imposes a heavy and intolerable burden on the country in general, merely to give a temporary and evanescent advantage to the landlords. We say *temporary*; for it is a fallacy and an absurdity to suppose that it is possible permanently to sustain the value of raw produce in one country at a far higher level than its value in other countries. We might as well expect that a snow-ball could be cast into a furnace without being melted! A relatively high price of the necessaries of life, by raising wages and reducing the rate of profit, must force capital abroad, and prove in the end destructive of the commerce and manufactures of the country; and when these have declined—when the consumers have been deprived of the power to pay high prices, what will become of the landlords and farmers, and what will then be the advantage of monopolies and restrictions?

Admitting, however, that it is possible, by means of a judiciously contrived system of regulations—by shutting out foreign corn when the home price is below 80s. or 90s., and burning the surplus produce in plentiful years—to keep the market price steady at about that rate, the lowest which the agriculturists state can possibly remunerate the cultivators of inferior lands, it is obvious the consumers would be obliged to pay 80s. or 90s. for the same quantity of corn they might obtain were the ports thrown open for 50s. or 55s. The quantity of the different kinds of grain annually consumed in Great Britain, cannot be estimated at less than 40 millions of quarters; and it is clear, therefore, that every additional shilling which is added to its price by means of restrictive regulations, has really the same effect on the consumers as if a tax of *two millions* were directly levied from corn! We have shown, in a former Number, (No. 65, Art. 9) that the total burden which the Corn Laws impose on the country, cannot, in ordinary seasons, amount to less than *twenty-five millions*; and, from inquiries subsequently made, we are satisfied that this estimate is rather under than over-rated. Now, supposing that it is possible to get rid of the fluctuations inherent in the factitious system—and we might with great probability suppose that men could live without food ~~if~~ we ask, why should the country be subjected to a tax of *twenty-five millions*, or why should it be subjected to a tax of *one million*, in order to protect the agriculturists from foreign

competition; that is, to enable them to obtain a monopoly price for their produce? To this question two answers have been given. In the *first* place, the Corn Laws are said to be rendered necessary by the comparative weight of our taxation; and it is confidently affirmed, that, without the protection afforded by them to the agriculturists, the country would be unable to support the enormous weight of the public burdens: And, in the *second* place, it is alleged that all the principal branches of manufacturing and commercial industry, are protected by means of prohibitory duties from foreign competition; and that it is only fair and reasonable that agriculture, which is the most important branch of industry, should enjoy the same protection and favour as the rest. We shall, in as few words as possible, endeavour to ascertain what degree of weight ought to be attached to these statements.

With respect, then, to the *first* assertion, that the Corn Laws are necessary to enable the country to sustain its burdens, it is plain, if it means any thing at all, it must mean, that an individual who is compelled, by means of a restrictive regulation, to pay 80s. or 90s. for the same quantity of corn he might otherwise have obtained for 50s. or 55s., will be the better enabled to pay high duties on tea, sugar, spirits, and other consumable commodities! Perhaps we might rest satisfied with this translation of the statement of the agriculturists into intelligible language; but the importance of the subject will excuse our examining it a little more minutely. We admit, then, that restrictions on the corn trade, by raising the *average* price of raw produce, and forcing the cultivation of poor soils, raise the rents of the landlords, and enable them to consume a greater quantity of taxed articles than they could do were the trade rendered free. But, is it not self-evident, that this advantage is obtained at the expense of the other classes of society?—that what is thus put into the pockets of the landlords, is taken from the pockets of those who are *compelled* to purchase their high-priced produce?

It is an incontrovertible principle, that the Government of a State ought never to interfere to adjust the gains and losses of its subjects. Its business is, to treat all parties with the same rigid impartiality—to secure to every individual the full enjoyment of his property and liberty—not to pamper and protect one class at the expense of the rest. But, suppose that Government had been so forgetful of the high trust reposed in its hands, as to have departed from this just and wise system of policy, and that it had imposed a tax of *ten or fifteen millions* on the other classes of society, to be distributed among the land-

lords, it cannot be doubted that *their* ability to pay taxes would, in consequence, be very greatly increased. Surely, however, it will not be contended, that the ability of the *public* in general to pay them could be increased by such a measure! All taxes must either be paid out of revenue or capital. But it is absolutely impossible that either revenue or capital can be increased by the mere transference of a portion of what belongs to one part of society to another. The wealth of the favoured class would be increased by such means; but this increase not being a consequence of the superior skill or industry of that class, but of the Government having, most unjustifiably, interfered to enrich them, by depriving the other classes of a part of their incomes, it would certainly indicate any thing rather than an increase of the *public* or *national* wealth.

Now, as it cannot be denied, that whatever additional means of paying taxes, a prohibition against the purchasing of food in the cheapest market may have given to the landlords, must have been obtained at the expense of the consumers of corn, it is plain, that such prohibition cannot have enabled the *country* to pay a greater amount of taxes. But we go further, and affirm, that the Corn Laws have not only not increased, but that they have greatly diminished the power of the country to sustain its burdens. They do not occasion a mere transfer of a part of the wealth of one class to another. If this was their only effect—if they merely plundered Peter to enrich Paul—they would be comparatively harmless. But they *destroy* much more than they transfer. It is no exaggeration to affirm, that of every *five* millions drawn by them from the pockets of the consumers, scarcely *one* finds its way into the pockets of the landlords! The other *four* are absolutely and totally lost to the country: they are expended *en pure perte*, and without contributing in the smallest degree to increase the comforts or enjoyments of any individual whatever. This is rather a startling statement; but it will not require a very elaborate argument to show that it is perfectly correct.

The nett rental of England and Wales was estimated by the Reverend Dr Beeke in 1799, when the average price of corn scarcely exceeded half its present average price, at twenty millions; and supposing the rent of Scotland to have then amounted to two and a half or three millions, we shall have twenty-two and a half or twenty-three millions as the total rent of the kingdom at that period. But the valued rack-rent of England and Wales was reported by the Commissioners of Income Tax to amount to twenty-nine and a half millions in 1810; and the rent of Scotland, at the same period, was nearly equal to four

millions. Now, supposing that the rental of both countries amounted, in 1813, when at the highest, to thirty-six millions, it must since have been reduced, by the most moderate computation, at least 25 per cent.; and cannot therefore exceed, at this moment, twenty-seven millions. This, however, is only four and a half or five millions more than the rental of 1799, while it ought plainly to have been twenty or twenty-five millions more, had the whole of the sum which the existing Corn Laws force out of the pockets of the consumers found its way into the pockets of the landlords! It would certainly be wrong to lay too much stress on conclusions derived exclusively from *data* which must always be not a little loose and unsatisfactory; but there are other arguments to show, that this estimate of the portion of the enhanced price of corn, which goes to increase the rent of the landlord, is very nearly correct. Rent, as we have already explained, consists of the excess, or of the value of the excess, of the produce obtained from the superior lands in cultivation above that which is obtained from the very worst. But when, by excluding ourselves from the cheapest market for corn, we force recourse to be had to poorer soils, we not only increase the *quantity* and the *value* of that portion of the produce of the country received by the landlord as rent, but we also increase the value of that portion which is required to indemnify the former for his expenses. Now, this portion is always far greater than the other. According to the returns made to the Board of Agriculture, and the evidence taken before the Committees of the Houses of Lords and Commons in 1814, the average proportion which rent bears in England and Wales to the value of the whole produce of the soil, does not exceed ONE-FIFTH. But when prices rise, neither the farmer nor any other individual reaps the smallest advantage from the enhancement of the value of the *four-fifths* which do not go to the landlord. This is just so much value thrown away. When the price of corn is elevated by means of a factitious system, the wages of the labourers which the farmer employs must, sooner or later, be raised in a corresponding proportion; while the heavy expenses attending the keep of his horses, and his other outgoings, are all equally, and almost instantaneously increased. If the rise of price occasioned by the exclusion of foreign corn could be confined to that part of the produce only which belongs to the landlord, he would receive the whole extra sum which the exclusion would force out of the pockets of the consumer. But this is not, and cannot be, the case. There cannot be two prices of the same commodity at the same time, and in the same market. The factitious system, which puts a greater value on

the *one-fifth* of the produce which goes to the landlord, equally raises the value of the other *four-fifths* which are cast into the soil as seed, or which are consumed by the men, horses, and oxen employed by the farmer. This is a principle which has generally been lost sight of, but which it is obviously of the highest importance to keep steadily in view. It shows the radical error of supposing, that a farmer can reap any real benefit from high prices. He may indeed be benefited by a rise during the currency of his lease; but whenever it expires, his money-rent will be raised proportionably to the increased value of the portion of his produce which constitutes rent, and his expenses will be raised precisely in proportion to the greater value of that portion of the produce which he is enabled to retain. Indeed, so far from its being true that high prices are really and permanently advantageous to the farmer, they are distinctly and completely the reverse. The object of the farmer must always be to derive the greatest profit from his capital; and it is demonstrable, that profits always fall as prices rise, and rise as prices fall. The price of wheat in Illinois and Indiana does not amount to one-third its price in England; and yet an Illinois or Indiana farmer, with a capital of 1000*l.*, would derive as much profit from it as an English farmer would derive from a capital of 3000*l.* or 4000*l.* The *real* interests of the farmers and of the consumers are precisely the same; and a permanently high price of raw produce, supposing it could be maintained, would not be less injurious to the one class than to the other.

It appears, therefore, from reasoning deduced from the statements of the most intelligent agriculturists, that to whatever extent the Corn Laws raise the price of corn above what it would be were these laws repealed, not more than *one-fifth* of that sum finds its way into the pockets of the landlords; and that the remaining *FOUR-FIFTHS* are absolutely and entirely lost or destroyed. Perhaps, however, we shall be told, that although a very large proportion of that increased price which the present system obliges the consumers of corn to pay for it, is not received either by the landlord or the farmer, it is paid as wages to the labourers employed in its production, and cannot, therefore, be said to be lost to the State. But this will not do. Is it possible to deny, that the fictitious value which the restrictive system gives to the corn used as seed, and in the feeding of horses, is not absolutely and entirely lost? But, even if all the produce which is not received by the landlord were to be expended in the maintenance of labourers, it would be of no consequence to this argument. It is true, that if we were to purchase our food in the cheapest market, a considerable number of the persons now

engaged in the cultivation of bad soils would be thrown out of *that* employment. But it is no less true that they would be employed in some other way. If the consumers of corn were enabled to obtain the same supply of that necessary for one-half, or two-thirds of the sum which it now costs, they would most unquestionably have the other half or third of this sum to expend on something else. The *total effective* demand of the country for the produce of labour, and consequently the rate of wages, and the power of obtaining employment, would therefore continue the same; while its wealth would be augmented by the produce of the labour of all the hands which had been set free from the production of corn. Suppose we require, under the existing system, the labour of *two* millions of people to raise forty millions of quarters of corn, and that, by throwing the ports open, we may obtain as large a supply by the labour of *one* million; then, as the means by which the consumers paid the labour of the two millions of hands cannot be diminished in consequence of this increased facility of production, it is clear to demonstration, that, after the fall of prices, the surplus million of hands will be employed in some other pursuit; and consequently, that the produce of their labour will be so much *clear gain*—so much of *positive addition* to the previous wealth and riches of the country.

It may therefore be concluded, that of the enormous sum of TWENTY OR TWENTY-FIVE millions, which the restrictions on the corn-trade take from the consumers, not more than *five*, and certainly not more than *seven* millions, come into the hands of the landlords. The other *fifteen* or *eighteen* millions are entirely lost, or, which is the same thing, they are entirely swallowed up by the increased expenses attending the cultivation of the bad soils to which the Corn Laws force us to have recourse. Instead, then, of the Corn Laws enabling the country to make good the taxes necessary to pay the interest of the public debt, and the expenses of the peace establishment, *they are, themselves, by far the greatest of all the burdens we have to sustain*! No country was ever before subjected to such a scourge. They do not merely transfer wealth; but they occasion a positive destruction—a *dead annual loss to the public of not less than FIFTEEN OR EIGHTEEN millions*!

But the agriculturists make a double use of the argument they have founded on the relative weight of our taxation. According to their doctors, it is not only expedient that the public should suffer a previous evacuation of *fifteen or eighteen millions* a year, in order to fit them for undergoing the further evacuation of the *fifty* millions demanded by Government;

but they also contend, that, in the event of the ports being thrown open, it would be impossible for the highly taxed English growers to sustain the competition of the untaxed democrats of North America, and the serfs of Poland and Russia! Now, admitting for a moment the correctness of this statement, would it not make a conjurer to divine how the factitious enhancement of the price of the seed used by the farmer, of the wages of his workmen, and of the keep of his horses, can enable him successfully to contend with low taxed foreigners? We leave the sagacious Mr Webb Hall to unriddle this riddle. The truth is, however, that the whole statement proceeds on a radical mistake. However oppressive taxation may be, and certainly we have no wish to palliate its bad effects, it affects all classes to the same extent. It is equally felt by the manufacturer and the agriculturist. If corn be imported from abroad, it must be paid for in commodities which are as highly taxed as the corn that is raised at home. And even those who may be disposed to doubt the perfect accuracy of this position, cannot, in order to place agriculture on the same footing with the other branches of industry, require any thing more than that a duty should be laid on foreign corn imported equal in amount to those taxes which can be shown exclusively to affect the home growers. Now these, we apprehend, are extremely few. Tithes were formerly thought to fall entirely on rent; but this opinion has been proved to be erroneous; and it has been shown, that the price of raw produce is raised in exact proportion to the charge on account of tithe. The price of corn, it must always be kept in mind, is regulated by the cost of producing it on land of the worst quality, and which pays no rent; and when a tax is imposed which affects the occupiers of such land, if they were not enabled to raise prices so as to obtain the common and average rate of profit, they would abandon their employment, and the diminution of supply would raise prices to their proper level. Taxation has no favourites—it scourges alike the landholder and the fundholder—the farmer and the cotton-spinner. It does not particularly affect any one class of society. But, when carried to the height to which it is now carried in this country, it presses with peculiar and unequal severity on the poor. In order, however, to put to rest all doubting on this subject, we should not forget, were the ports thrown open, that an additional duty of one per cent. should be imposed on all foreign corn imported. This would give all the protection to the agriculturists to which they are entitled, on the ground of their being peculiarly affected by taxation, and a *second plea* would not detain us long.

A prohibition against importation from abroad, or a protecting duty, is plainly of no value whatever to the producers of such commodities as are exported, without the aid of a bounty, to other countries. Those who can afford to undersell foreigners in the foreign market, have certainly nothing to fear from their unrestricted competition in the home market. And, fortunately, this is the case with the manufacturers of Britain. A prohibition against the importation of foreign manufactured goods is really of no more consequence to them, than a prohibition against the importation of foreign corn would be to the farmers and landlords of Poland or of Russia! All our principal manufactured commodities, such, for example, as woollens, cotton stuffs and yarn, hardware, leather, &c. &c. can be produced cheaper here than in any other country; and the proof of this is, that we are able to export them with profit, not only to our immediate neighbours, but to the remotest districts of China and Hindostan. The duties intended to protect them, may, therefore, be entirely repealed without the slightest inconvenience; they are, to all intents and purposes, a mere dead letter; and serve only to incumber the statute-book, and to afford, as in this case, the shadow of an argument to real monopolists. And such, we are truly gratified to have to remark, is the view that is now almost universally taken of their operation by our manufacturers and merchants. In 1820, petitions were presented to Parliament from London, Liverpool, Glasgow, Manchester, Leeds, Bristol, and all the other great commercial towns in the empire, in which the petitioners distinctly and strongly stated their conviction of the ‘impolicy and injustice’ of the restrictive and prohibitive system, and prayed for *a total repeal of all such prohibitions and duties as had, for their object, to exclude foreign competition.* Even the silk manufacturers, who were supposed to be particularly interested in the support of the prohibitive system, instructed Mr Ellice, the member for Coventry, to state in his place in the House of Commons, that they would not oppose the throwing open of the ports to the free importation of French and other silks, provided Government would reduce the duties on raw and thrown silk to the *same level* with the duties charged on them in France! It is in vain, therefore, that the agriculturists endeavour to apologize for the restrictions on the importation of foreign corn, by telling us that they are necessary to place agriculture in the *same situation* as the other branches of industry. The restrictions on the importation of foreign manufactured products are almost universally without effect; and those for whose protection and advantage

they were intended, have themselves come forward and petitioned Parliament for their abolition.

But, even if it were true, which it is not, that any of our principal manufactures are benefitted by the exclusion of foreign competition, that would be no good reason why agriculture should be placed in the same situation. A prohibition against the importation of foreign manufactures may prevent our purchasing them in the cheapest market, but it cannot raise their price in the home market. Whatever may be the sum for which cloths, hats, or any other manufactured commodity could be produced in this country, when there was no restriction on their importation from other countries, they would be brought to market for precisely the same sum *after the restriction*. The restriction would not raise the cost of producing them; it would only attract a greater quantity of the national stock into those departments than might have flowed into them had the ports remained open to importation from abroad. But this is not the case with corn. A prohibition against importing corn into a comparatively populous country, does not merely attract a larger share of the national capital to agriculture, but it causes *a considerable and positive increase of the cost of producing corn*. The reason is, as we have already shown, that when you exclude foreign corn from a country like Britain, you force recourse to be had to inferior soils to obtain the necessary supplies, and consequently raise the cost of producing them. There is, therefore, a complete and radical distinction between agriculture and commerce and manufactures. The price of the raw produce obtained from the one has, because of the absolute necessity of resorting to poor soils, a constant tendency to rise as society advances; while, on the other hand, the price of manufactured products has, because of the continued improvements in machinery and the arts, a constant tendency to fall. It is idle, therefore, to talk about placing the one species of industry in the same situation as the other! And, although it were as true as it is false, that some of our principal manufactures derive advantage from the restrictions on foreign importation, that would afford no apology for imposing a restriction which must, by raising the cost of producing the principal necessary of life, sink the rate of profit, and create a powerful inducement to transmit capital to foreign countries.

We think that, by this deduction, we have completely established two points. The first is, that so long as the restrictive system is maintained—that is, so long as we succeed, by imposing restrictions on the importation of foreign corn, in sustaining its average price in this country at a higher level than its average price in surrounding countries—we shall be exposed to

a ruinous fluctuation of prices. In years when the crop is luxuriant, the impossibility of exportation, and the consequent depression of price, will involve the agriculturists in the same difficulties with which they are now struggling. And, on the other hand, when the crop is deficient, as it is sure to become after a period of great depression, prices will rise to the *famine level*, and the manufacturing and commercial classes will be driven to despair! The resolutions agreed to at some of the late agricultural meetings, disclaim any intention of seeking *additional protection*; and so far they deserve our commendation. But the Legislature must not stop here. It would be insanity to impose additional restrictions; but it is nothing less to maintain those already in existence. Until they are entirely abolished, it is worse than absurd to expect either the tranquillity or prosperity of the country. So long as the present wretched system is maintained, our ears will, at one time, be stunned with the complaints of the agriculturists, and, when these have subsided, they will be assailed with the louder and still more piercing cries of the manufacturing population—with the noise of radical rebellions, and fresh suspensions of the Habeas Corpus act! It was the exclusion of foreign corn that was the cause of the high price of 1817 and 1818; and it was this high price which was the real cause of those popular commotions which were made the pretext for the late encroachments on the Constitution. ‘*Of all rebellions,*’ says Lord Bacon, ‘*THOSE OF THE BELLY ARE THE WORST.*’ The first remedy or prevention is, *to remove, by all means possible, that material cause of sedition of which we speak, which is WANT AND POVERTY in the estate.*’

The second point we have established, is the unreasonableness of the existing restrictions on the corn trade, on the principles of the agriculturists themselves, and on the supposition that fluctuation could be avoided. We have shown that, instead of enabling the country to bear the enormous load of taxes by which it is oppressed, the Corn Laws really constitute our *heaviest burden*; that taxation does not affect agriculture more than it affects any other department of industry; and that the manufacturers derive no benefit from, and are ready to relinquish, the restrictions and prohibitions intended to protect them from foreign competition.—In short, that if we mean to place agriculture in the same situation as the other departments of industry, we must, instead of framing new restrictions, abolish those already in existence.

Before bringing this article to a close, we must be permitted to express our approbation of the manner in which the Report

of the Agricultural Committee is drawn up. It evinces a familiar acquaintance with many of the soundest, though not the most obvious, principles of economical science, and is, on the whole, liberal and enlightened. The principles laid down by the Committee all conspire to establish the injustice and impolicy of restricting the trade in corn. But instead of recommending, as they ought in consistency to have done, that the restrictions should be abolished, and the trade thrown open, the Committee suggest, that such 'a fixed duty should be imposed on the importation of foreign corn as might compensate the grower for the loss of that encouragement which he received during the late war, from the obstacles thrown in the way of importation.' In making this supposition, Mr Huskisson, who framed the Report, has doubtless sacrificed his own better judgment to the prejudices of the majority of the Committee. It would be impossible to estimate what ought to be the amount of such a duty with any degree of precision. And if it were imposed, it would, by restricting importation, and elevating the home produce, occasion those fluctuations whose disastrous effects we have described. But supposing it were possible to get rid of these effects, why should such a boon be granted to the agriculturists at the expense of the rest of the community? The commercial and manufacturing classes have been deprived of whatever advantages they enjoyed in consequence of the hostilities in which we were so long engaged; and why should not the agriculturists, who have shared equally with the others in all the blessings of peace, also bear their fair share of the revulsion it has occasioned? We should doubtless have considered the French Government as little better than insane, had they attempted, after the intercourse with the West Indies was renewed, to secure to the raisers of sugar from the beet root, a continuance of all the advantages they had enjoyed during the exclusion of colonial produce from the Continent! But sugar is not one of the principal necessities of life; and any measure for keeping up its price, however absurd it may appear, must be infinitely less prejudicial than a measure which goes to maintain the price of corn at a forced elevation. In justice, however, to the Committee, we must say that they do not themselves seem to have been much captivated with this suggestion. And it has evidently got a place less on account of its own presumed worth, than that it might serve to soften the indignation of the agriculturists against those parts of the Report which make so strongly in favour of the only sound principle on which the trade in corn can ever be conducted—that of PERFECT FREEDOM!

ART. VII. *Œuvres Complètes de Demosthène et L'Eschine, en Grec et en Français. Traduction de L'Abbé AUGER, de l'Académie des Inscriptions et Belles Lettres de Paris. Nouvelle Edition, Revuë et Corrigée par J. PLANCHE, Professeur de Rhétorique au Collège Royal de Bourbon. Tome dixième. Paris. Année 1821.*

EVERY great master of the Art of Speaking or Writing, is, in some degree, a *mannerist*. By this, however, we would not be understood as implying a servile and continued imitation of some admired model, or a constant and affected recurrence to some favourite turn and peculiarity of expression. Our sense of the phrase extends to cases of a much higher order, and to persons of a far different degree of merit,—to those, in short, whose compositions are, generally, agreed to be the most faultless and perfect. Who, for instance, was ever more just in his conception of a subject, or more fortunate in the choice of his expressions, than Virgil? Generally speaking, would any critick presume to say, that he is above or below the point,—too hot or too cold,—too vulgar or too refined,—too long or too short,—too passionate or too tame,—any thing, in one word, but what is right? If no such hypercritick has yet appeared, and almost every reader will be found to concur in the opinion, that he approaches, perhaps as nearly as possible, to the standard of true taste; it follows, pretty much of course, that it cannot, with any truth, be asserted, that there is any thing singular and peculiar, except that exquisite delicacy of judgment and feeling, which is the foremost of those transcendent qualities and excellences which excite such general admiration. Yet is he, assuredly, however exempt from eccentricity or oddity, most perfectly *like himself*. He cannot be mistaken. No one, of ordinary proficiency in literature, and with the most moderate acquaintance with this Poet, can, possibly, read a dozen lines indifferently chosen, and doubt whose they are. He could not, in guessing, blunder upon Ovid, or Lucretius, or Claudian, or Lucan, or Silius, or Catullus—or any one else. The bustling conflicts of the Bees, and the more durable battles of the Men,—the story of Dido's unhappy love, in all the minute tenderness of its detail, and the short, but sweet, allusion to Orpheus and Euridice,—the visit to the shades in the Georgicks, and the like in the *Æneid*, are all portraits of the same master.—They are Virgil all over.

Now, this *manner*, constituting, as it were, the identity of each author, is what the Translator ought to catch; and is, never-

theless, the very thing, which is apt to evaporate in translation. For which reason, expedients are frequently resorted to, which may, at least, bring the original to our recollection, no matter whether with the most favourable impressions or not. Every reader, we doubt not, has felt, in some degree, a wearisome effect from the studied brevity and affected sententiousness of Tacitus; and that some deduction must, on this account, be made from his general merit, which consists in vigour, justness of reflexion, and philosophical remark. Davanzati, however, as if determined to make the most of this failing, and to be upon a level with the Roman historian in his principal, or only defect, professes his plan to be to make his Italian translation consist of fewer words than the original Latin; a plan (however the execution may be in other respects) as preposterous as any of those conceits, which constrained the author to disburthen himself of his whole stock of prose or verse, on any particular subject, within the compass, and in the figure of a bird—a heart—an altar, or whatever else the pruriency of a vicious fancy might prescribe. Some such taste, at least, if not design, produced the aping of Milton by Philips, and of Shakespeare by Rowe; and of a kindred spirit and principle was the imitation of those mock-Catos amongst the Romans, whose whole resemblance to the philosophical patriot consisted, we are told, in the affectation of bare feet and sour faces. Demosthenes, to take another example, loads Æschines with sundry odious epithets, and calls him many sorry names; and, moreover, takes the most absolute and unrestrained liberty with all the personages, male and female, of the antient Pantheon. Yet, should we suppose, that no great approximation was made towards *his general manner*, because *these parts* were rendered to the life, and the Attic blasphemy and reviling were equalled, or even surpassed, by flowers of oratory, which might be culled in the purlieus of Billingsgate or St Giles.

To transfer, by translation, the true character of an author from one language to another, with spirit and fidelity, requires, in composition, a quality equivalent to what *expression* is in painting. That artist, who, by a diligent and attentive examination of the human subject, exhibits, in his picture,—not a minute and exact delineation of this or that detached limb or feature, but a general representation—the true effect, and full description of the whole person, may be said, to *translate Nature*. Such a proficient, for such a purpose, would not be satisfied, with snatching a glimpse or resemblance of his subject at one particular moment, and still less with mimicking some glaring and obvious peculiarity, but must endeavour to

seize the result of various attitudes, and gestures, and looks, assumed at different times and occasions, and embody them into one uniform, but general design. Every body knows it to be quite possible, for the merest dauber, to spread upon his canvass the exact superficies of human flesh, with the different varieties and undulations of surface; to exhibit the red and the white, not only with a faithful attention to their exact amount, but to their actual disposition and admixture; nay, that in his laborious process he may have caused 'the very hairs of the head to be numbered,' and yet produce, after all, in no genuine sense of the word, or with reference to the higher efforts of the art,—a likeness, but an insipid and spiritless caricature. So does it usually fare with translators,—if they chance to rise to the merit of producing a likeness at all. And, indeed, without calculating upon the difficulties thrown in the way by a change of manners, of customs, of laws, and religion, to which we formerly adverted, (Vol. 22, Art. 8.); when we come to consider the numerous, and, in some respects, inconsistent qualities which are requisite for the execution of such a work,—an observance approaching to tameness and servility of the original meaning—a power, spirit and comprehensiveness, which are the characteristics of true genius, to transmit the entire sense, perfect and unimpaired, in the tone and feeling of the author—and judgment and discretion to distinguish, when, for the sake of modern idiom, to abandon, and when to retain,—why need we wonder at failure? And what renders the case more desperate and incurable (if, indeed, we did not think, as we do, that the requisite abilities would be misemployed in such an undertaking) is, that if talents could be increased to any extent upon demand, it does not, of necessity, follow, that success in translation would be increased in the same proportion. If it might not seem whimsical to object to an excess of such a rarity, we should say, that it would be as likely to produce a work of a new and independent character, as to reproduce that likeness,—that identity,—that image of the original, which it is the limited duty of a translator to supply. Those of our readers who recall to their recollection some of the efforts of Dryden and Pope, will not be at a loss for the application of these remarks. The Paraphrase (for instance, as it is termed by the former) of the 19th Ode of the third Book of Horace, contains, in the description of the mastery which Time gives over Fortune, some as vigorous, spirited, and masculine lines, as are to be found in our own, or probably any other language,—but no more resembling, in style and manner, that ode of Horace, (or any other), than the ballad of Chevy Chase. The translation, in

truth, very far surpasses the original in energy and power,—whatever may be said about the grace, elegance, and finish of the two compositions. Pope, on the other hand, by keeping constantly on a level with his author, frequently comes much nearer in his imitations (as he calls them) of Horace, to what we understand by translation, than any thing which we are acquainted with, passing expressly under that name. There is, in the English, a very general approximation to the good sense of the Roman poet, which is his never-failing characteristic; and occasionally, a happy, though, it must be admitted, somewhat laboured imitation of his ‘easy-chair’ and gentleman-like manner, which are calculated, in our opinion, to give a mere English reader (and that, by the way, is the primary object of all such efforts) a better and more lively idea of the Satires and Epistles of Horace, than is conveyed by any avowed translation of any classical author whatever.

Of Demosthenes (whatever may have been said by Dionysius, of his Proteus-like qualities and the universality of his composition), it must be agreed that he is, in our sense of the term, a *mannerist*, and bears about with him, throughout, the stamp of his own identity. His style is like that of no one else. In the rival passages (for instance) from the Oration for the Crown, and the Funeral Oration of Plato, which Dionysius, as we have formerly noticed, compares, there is nothing more akin (Attick as they both were) than if they had been composed a thousand years asunder; nor even between himself, and his own immediate contemporary and antagonist, is there a stronger similarity (we beg to be understood as casting no imputation upon the general good taste of Æschines by the comparison) than between Addison and Gibbon. In our judgment, he most resembles Thucydides,—but Thucydides unfrozen, expanded, amplified and adorned. Without, however, wearying our readers with a dissertation, which might be endless, upon what he is most like, or what he is not like at all, we have no difficulty in saying, that, in all his orations, and throughout every part of them, the principal feature and the leading characteristic is argument,—but such argument!—so environed, encompassed, and enblazoned with passion, anger, inflammation, earnestness, disdain, power,—and so forth (for which we refer again to Dionysius, Longinus, and the Criticks, and to the taste and feeling of every reader who has any), that the argument merely, though without the loss of a tittle or iota of it, if stripped of its accompaniments, can no more be compared to that marvellous compound, which, for want of a better description, we call *Demosthenes*, than a shadow to a substance,—a skeleton to a man, or the faded

remnant of loveliness, which lingers on the countenance of death, to the glory and blaze of beauty in the fulness and freshness of life and health. In these latter instances, who can say that there is no resemblance? But what a falling off!

* Αἶ, αἶ, πῶ τὸ ποθεῖν ἰμοὶ θάλας?—ἀρπασεν Ἄδας,—

Ἄρπασεν—αὐκῆμιον δ' ἄηθες ἔφυρε κόπης.—*Anthol.*

Feeling, therefore, as we do most perfectly, the desperate nature of this undertaking, and that, at best, it is only a question of approximation, by whomsoever the attempt may be made, we must nevertheless observe, that, *a priori*, and without reference to the actual experiment, we should have expected, from almost any quarter of Europe, a more favourable exhibition of 'the old Man eloquent,' than from Paris. We are aware that this opinion should be delivered in a whisper, if it were likely to reach the neighbouring capital: But still we must say, that the bullion and substance of the athletic and ponderous orator, 'spun into French wire,' or hammered into their tinsel, are not, in our apprehension, likely to bear a stronger resemblance to the original, than the slim figure of one of their skipping posture-masters, to the muscular frame of old Milo of Crotona, or one of their lean kine to a well-fed bull of our Crowland or Bedford level. Their very *bien narrer* itself, upon which they plume themselves so much, (and we are not disposed to deny them this excellence), the easy, lively, sprightly, unsubstantial narrative of—no matter what, provided it be told well—may consist perfectly with a total absence of all solidity, vigour, and passion—the very distinguishing features of Demosthenes. Who indeed could expect a faithful delineation of an author, apparently *all subject*, from a scholar of that nation, one of whose most admired and celebrated criticks had no hesitation in avowing, that 'he should infinitely prefer the most commonplace and ordinary observation, dressed up with all the finish and effect of elegant composition, to the most noble thought, if conveyed in unadorned and inelegant language?' Who could expect a full display of passion from a member of that corporation of criticks, (and that too of the most intolerant, bigotted, and exclusive cast), who can patiently sit, for hours together, and admire the monotonous, sing-song declamation,—not merely of love-sick swains, 'sighing like furnace,' in endless verse, but of heroes

Ah! where is now the lov'd and living bloom
That the young flower in Summer beauty drest!
DEATH, like a blight, has o'er its sweetness come,
And soil'd in dust its bright and budding crest!

and heroines expiring, in the* extremity of distress, with the nerveless, spiritless, heartless polish, and much more than the length, of a drawingroom conversation?

We have been induced to resume and conclude this subject, in consequence of M. Planche having arrived at the close of his work, and given, of course, amongst the rest, the great oration. Contrary, however, to an expectation, which a perusal of the Preface to the first volume had excited, we find that the translation is the old one by the Abbé Auger, and not a new one by M. Planche. We have, nevertheless, read a good part of it, though a matter of less curiosity, and have a similar report to make of the quality of the performance to that, in our former article, of the translation of the smaller orations. We, of course, do not speak of a failure in the general effect, when compared with the original, (how that was sure to be, we knew full well before we took it up), but of departures from the sense, which, as an acquaintance with the author and his language is an indispensable preliminary, are less excusable. If criticism, and particularly of an old translation, had been our object, we were prepared to lay before our readers (taking the matter up at the commencement) a sufficient stock of passages to justify these remarks; but we have not leisure or space, at any rate, to do more than advert to some instances, which may occur in the prosecution of our more immediate pursuit. For we are aware that we are under a sort of pledge to make some attempts at translation, and are, ourselves, about to be put upon our trial. Of these specimens, which we lay before our readers, we most readily admit that we are ashamed (not, we beg to have it understood, that we are assuming a sham modesty, and affecting to dread a comparison with M. Auger, Planche, &c.; but) when we look upon the Greek, and are fully sensible of manifold failings, except, we trust, so far as the meaning is concerned, for the purpose of adhering to which we have, designedly, sacrificed much.

Our first effort is from that part of the Oration for the Crown, which immediately succeeds the memorable, and often celebrated passage, describing the confusion and dismay at Athens upon the arrival of the intelligence of the capture of Elatea; the particulars of which are given, as many of our readers must remember, in the very highest spirit, and with the utmost vigour

* Horace knew better than this.—

Et *Tragicus* plerumque dolet sermone pedestri :—

Telephus et Peleus, cum pauper et exsul uterque

Projicit ampullas, et sesquipedalia verba.—*De Arte Poet.*

of oratorical and poetical description. One circumstance only we shall notice, for explanation, because it is adverted to in the subjoined passage. The public herald, it seems, thrice came forward to demand, 'if any one wished to address the Assembly,' (*—τίς ἀγορεύειν βύλῃαι;*) and no man could be found, in that crisis of terror and despair, to speak for his country—but Demosthenes! Then follow some leading heads of his own speech on that occasion; the chief of which was to exhort the Athenians to bury all animosities, and to join the Thebans, heart and soul, against Philip. After which comes the Declaration of the Athenians, drawn up by Demosthenes himself,—curious surely as an historical document, and a specimen of a state-paper of those times—but chiefly curious and valuable no doubt from the consideration, that it has not been surpassed by any that has come after it, during the lapse of two thousand years, in wisdom, dignity, and eloquence.

‘ THE DECREE OF DEMOSTHENES.

‘ Forasmuch as it manifestly appears that Philip, King of Macedon, hath, both in times past, been continually transgressing the treaties of peace which subsisted between himself and the people of Athens,—in contempt of oaths, and whatever is deemed justice amongst all the Greeks, and reducing into his power cities to which he had no manner of claim, and hath actually wrested some belonging to the Athenians from them by force of arms,—having been, in no instance, previously aggrieved by the Athenian people;—and that he is, at this moment, proceeding beyond all bounds in violence and ferocity,—for some Grecian cities he is keeping down with garrisons, and destroying their forms of government,—others he hath razed to the ground, and led away their inhabitants into slavery, and hath introduced into others,—into their very temples and sepulchres, colonies of Barbarians in the place of Greeks,—in all which conduct there is nothing in any degree inconsistent with the character of his country, or his own habits,—intoxicated, as he is, with his present good fortune, and unmindful, that, from an insignificant and ordinary person, he hath unexpectedly risen into power:—That whilst the people of Athens beheld him subduing Barbarous cities, even though their own, they considered the cause of offence as too trifling to demand their notice;—but that now, when they witness Grecian cities,—some insulted, others utterly laid waste, they consider it intolerable, and unworthy of the glory of their ancestors, to remain passive spectators, whilst the Greeks are reduced into slavery. For this cause, it hath seemed good to the senate and people of Athens,—having first offered up prayers and sacrifices to the gods and heroes who protect the city and territory of the Athenians, and reflecting upon the glory of their ancestors (for that they ever deemed it a higher object to watch over the liberty of the Greeks, than their own particular country) to launch 200 ships of war, and to order their

admiral to sail within Pylæ, and their generals of infantry and cavalry to lead their respective forces to Eleusis;—and to send ambassadors to the other Greeks, and, first of all, to the Thebans, on account of Philip being nearest to their territory, and to exhort them, in no respect dismayed by his power, to bear up manfully for their own liberty, and that of the rest of the Greeks:—And that the people of Athens, bearing no ill-will, if there should have been any former misunderstanding between the two States, will assist them with men and money, and ammunition and arms, being aware that, for themselves, who are Greeks, to contend with each other for ascendancy is honourable;—but that to be domineered over by a man of foreign extraction, and to be stripped by him of that ascendancy, is unworthy of the glory of the Greeks, and of the virtue of their ancestors. Moreover, the people of Athens consider that the Theban people are not unconnected with them either in affinity or common origin. They bear in mind, also, the benefits conferred by their own ancestors upon the ancestors of the Thebans: For the former restored the descendants of Hercules, who had been deprived by the Peloponnesians of their hereditary government, after having overcome, by force of arms, those who endeavoured to oppose those descendants; and they received into their city Œdipus and his companions in misfortune,—and many other signal and splendid instances exist of their liberal and friendly conduct towards the Thebans. Wherefore, the people of Athens will not, even now, detach themselves, in the slightest degree, from the interests of the Thebans and of the other Greeks;—but will cordially cooperate with them, and will form an alliance, offensive and defensive, with them, and institute a reciprocal right of intermarriage between the two States, and mutually administer and receive the oaths. The ambassadors were Demosthenes, &c. The Orator then proceeds.

‘ Such was the commencement and first restoration of our affairs with respect to Thebes; the two countries having been previously brought by these miscreants into a state of animosity and distrust. This decree caused the danger which then environed the city to pass away like a cloud. Now, the duty of a good citizen was to declare publicly at the time, if he had any better measures to propose, and not now to condemn them. For an honest adviser, and a false accuser, resembling each other in no one thing, differ most of all in this—that the one declares his opinion before the events happen, and renders himself responsible to those who adopt his counsel,—to fortune,—to events,—to any person who may call him to account; but the other, keeping silence when he ought to speak out, makes a reverse of fortune, if any should happen, the subject of unjust accusations. That, then, was the season, as I have already said, for a man to come forward, who had the good of his country at heart, and honest advice. But I go farther, and to so extravagant a length, that if, at this moment, any one can point out any thing better to have been done, or if, upon the whole, any thing else was possible,

except what I adopted, I will admit that I did wrong." For if any man has now discovered what would have been of advantage had it been then resorted to, I avow that it ought not to have escaped me. But if there neither is, nor was,—and no man, even at this hour, can suggest any such thing, what ought a statesman to have done? Ought he not to have chosen whatever was the best, under existing circumstances, and out of the means within his reach? This is the very thing I did, Æschines, when the public herald demanded—"Who wishes to address the people?"—not—"Who wishes to find fault with past events?"—or, "Who wishes to pledge himself for what is to happen?" Whilst you, at that crisis, sat silent in the assembly, I came forward and spoke. But if you could not *then*,—at least point out *now*,—let us hear what resource, which I ought to have discovered, or what opportunity, which I ought to have improved, was then omitted by me on behalf of the country. What alliance? What single measure, that I ought to have, or have actually persuaded the people to pursue, in preference to what was actually adopted?

But, moreover, the past is always dismissed by all men from deliberation, and no one ever proposes any counsel respecting that. The future, or the present, alone require the skill of a statesman. At that time, then undoubtedly some dangers appeared to be approaching, and others actually were at hand; with regard to both which, I again invite you to examine the character of my public conduct, and do not unjustly upbraid me with the event. For the termination of all things must ever be at the disposal of Providence, and it is only from the measures he proposes, that any judgment can be formed of the intelligence of a statesman. Never let it be attributed to me then as an offence, if it did so fall out, that Philip won the battle; for the issue of that was in the hand of God, and not of me. But show, that I did not select such measures as, according to human foresight and what was practicable, were the best, or that I did not, faithfully, and honestly, and laboriously (even beyond my strength) execute them; or that the course proposed by me was not honourable and worthy of the country, and necessary,—show me this, and then accuse me. But if that tempest or thunder-clap which came upon us, was too powerful, not only for us, but for all the rest of the Greeks to resist, what was to be done? Just as if the master of a vessel, after having done every thing possible for its security, and equipped it with every thing for the purpose, and with the prospect of safety, were to encounter a storm, and, upon his tackle being strained or wholly giving way, were to suffer shipwreck, and then some one should blame him;—why, I had not the control of the vessel, he might reply;—any more than I had the command of the army, or was the master of Fortune, instead of her being the mistress of every thing. But recollect and consider this;—if it was our evil destiny so to fail, when fighting in conjunction with the Thebans, what might we not have expected, if we had not had them for our allies, but they had been

united with Philip—an event, for which this * Æschines was eternally lifting up his voice? And if when the battle was fought, at the distance of three days' journey, such danger and consternation came upon the city, what ought we not to suppose must have happened, if the calamity had taken place within our own territory? Do you think we should have been allowed now to exist, and assemble and breathe again? † Three days, or two, or even one, contributed largely to the salvation of the country. In the other event—but I need not pursue consequences, which the goodness of Providence, and the shield I placed before the city by this decree (which you, Æschines, revile) would not allow us to experience.

‘ But all these numerous topics are addressed to you, the judges, and to the strangers who are present and listening to the trial; forasmuch as against this contemptible wretch himself, a short and simple statement would suffice. For if futurity was revealed to you alone of all mankind, Æschines, when the state was in deliberation upon the measures to be adopted—that was the time for you to have foretold the result;—but if you did not foresee it, you are open to the imputation of the same ignorance as others:—what greater right then have you to accuse me upon this subject, than I to accuse you? In this, at least, I proved myself so much a better citizen than yourself upon these very measures (and I am, at present, speaking of none other) in proportion as I rendered myself responsible for what then seemed to be for the public interest, without any personal apprehension, or underhand calculation about myself;—whilst you neither offered any better suggestions, (for if you had, the people would not have acted upon mine) nor made yourself useful in any one particular,—but the very course, which might have been expected from the worst-disposed person and the bitterest enemy of the State, you are proved to have pursued upon the events as they have arisen,—and, at the same moment, Aristatus at Naxos, Aristolaus at Thassus,—‡ in one word, the enemies of the Athenians, all the world over, are dragging their friends to the bar of justice, and at Athens, Æschines is, of course, accusing Demosthenes! Although that man, for whom the misfortunes of the Greeks are reserved as a source of glory, ought rather to suffer death himself, than accuse another; and he cannot be well affected to his country, who has such an identity of interest with its enemies, as that the same circumstances should be,

* If *ἐνέρος* be the true reading, we are aware that Philip must be meant. But the spirit of the passage itself, and the analogy of the whole oration lean to *οὐτός*, as we translate it.

† We have inverted the order. In the original it is *one day*, &c.

‡ We take a bold step here. The ‘*οἱ καὶ ἀπὸ τῆς ἐχθρῆς*’ does seem to be confined to Aristatus, and Aristolaus,—‘those steadfast enemies,’ &c. But, surely, our version is more in the usual spirit of Dem.

at once, profitable to both. By the habits of your life and private conduct;—by what you do in public affairs,—and by what you decline doing, you manifest what you are. Is there any thing going on, from which there is a prospect of advantage to the country? Æschines is * dumb. Has there been any failure, or a result different from what it ought? Forth comes Æschines! just as old fractures and sprains rack us afresh, when the body is attacked by disease.

‘ Seeing, however, that he dwells so much upon past events, I am willing to maintain what may appear paradoxical; but let no man, in the name of Jupiter and the gods I conjure you, feel astonished at my boldness, but attend favourably to what I am about to say.

* The Orator returns to this charge, and dwells upon it more largely afterwards. (P. 502) He there accuses Æschines of maintaining ‘an unfair and hollow silence,’ or ‘quiet,’—*ἡσυχίαν ἀδίκον καὶ ὑπελόν*. This translation we consider a very tolerable one—the epithet ‘hollow’ (itself used metaphorically) agreeing better with *ὑπελόν*, than M. Planche’s modern Attic does with the ancient, nine times in ten. But how far it falls short of the original (and we are at present adverting to its extraordinary force), will be seen when, in order to express the *literal* meaning of that single word, we are, of necessity, driven to this periphrasis;—‘a hollow silence, like that particular state of a wound which has just skinned over, as if about to heal, but which is, nevertheless, rankling underneath, and just upon the point of breaking out into fresh mischief.’ Again, in the apostrophe just at the close of our attempt at translation, the word *προκινδυνεύσας* signifies not merely exposing themselves to danger, or, as we translate it, ‘courting death,’ &c. but *the cause* is implied. Where the object is expressed, *κινδυνεύω* is the word. As in the passage, which we render ‘struggling for precedence, honour,’ &c. *κινδυνεύεσθαι* is then used. Constantine, in explaining the word *προκινδυνεύω*, as we have done, gives us an example of this passage from Plutarch—*προκινδυνεύειν ὑπὲρ τῆς ἐκείνων ελευθερίας*—the very meaning here. So that *προ* explains it to be an exposure ‘for the common safety and liberty of Greece.’ One instance more—confined, as we are, within the limits of a note. In the Decree of the people of Byzantium (p. 326) in praise of the Athenians, there is the expression—*ἀποκατέστας τὸν πατρὸν πολιτείαν*, &c. ‘restored to us the government of our ancestors, our laws,’ &c.; which, one would suppose, was tolerably significant, as we have already translated it:—But no;—the preposition *ἀπο* absolutely requires that we should add, ‘by rescuing us and them from the domination and gripe of Philip.’ What a language! Bacon, we believe, from this superior artifice and refinement, makes an inference in favour of ancient intellect. We do not meddle with this; but simply remark, that the Greek was a weapon worthy of being put into the hand of such a combatant as Demosthenes. Can we say more?

If, then, the events, which were about to happen, had been manifest to all, and every man had foreseen them, and you, Æschines, had predicted and protested, with shouts and vociferations,—you, who never opened your mouth,—I say, that not even then should the city have departed from its line of policy, if it had any concern for its glory, its ancestors, or posterity. For, as it is, we but appear to have failed in our undertakings, which is the common lot of humanity, when it is God's pleasure; but, in the other case, we should have been subject to the imputation of having affected to take the lead amongst the Greeks, and, afterwards, in abandoning that pretension, of having betrayed them all into the hands of Philip. * For if without a struggle we had resigned this precedence,—in support of which there is no danger of whatever description which our ancestors have not endured,—who is there, who might not justly have despised even you,

* We are aware that it is for our interest to keep the original out of sight; but we wish to tempt our readers to a perusal; and, if we should succeed, we fearlessly put it to them, whether any praise can be excessive or hyperbolical. “Εἰ γὰρ ταῦτα προῖτο ἀκοιτῇ, περὶ ὧν ἔδιναν κινδυνὸν ὅτιν' ἔχ' ὑπέμειναν οἱ πρόγονοί, τίς ἂν οὐχὶ κατέαυτευσεν ἂν σε; Μὴ γὰρ δὴ πόλειός γε μὴδ' ἐμεῦ. Τίος δ' οφθαλμοῖς, πρὸς Διὸς, ἐερῶμεν ἂν τοὺς εἰς τὴν πόλιν ἀνδραποῦς ἀφικνεύμενους, ἐπὶ τὰ μὲν πράγματά εἰς ὅπερ νυνὶ περιστῇ, ἡγεμῶν δὲ καὶ κύριος κρείθρ' Ἰφιλιππος ἀπάντων, τοῖς δ' ὑπὲρ τῆ μη' γενέσθαι ταῦτα, ἀγῶνα ἕτεροι χωρὶς ἡμῶν ἦσαν πεποινημένοι; καὶ τὰντα, μηδὲ πῶπός τις πόλεις ἐν τοῖς ἔμπροσθεν χρόνοις ἀσφάλειαν ἀδροῖον μᾶλλον ἢ τὸν ὑπὲρ τῶν καλῶν κινδυνὸν ἡρμηνεύς. Τίς γὰρ οὐκ ὀιδεν Ἑλλήνων, τίς δὲ Βαρβαρῶν, ὅτι καὶ παρὰ Θηβαίων, καὶ παρὰ τῶν ἐν ταῖς πόλεσιν ἰσχυρῶν γεγεννημένων Λακεδαιμονίων, καὶ παρ' αὐτῶν τῶν Περσῶν βασιλείας, μετὰ πολλῆς χάριτος τοῦτ' ἂν ἀσμενως ἐδόθη τῇ πέλει, ὅ, τι βέλτεται λαβούσῃ, καὶ τὰ ἐαυτῆς ἐχούσῃ, τὸ κειλυόμενον ποιεῖν, καὶ ἑᾶν ἕτεροι τῶν Ἑλλήνων προεστιάει; Ἀλλ' οὐκ ἦν ταῦτα, ὥς εἰκε, τοῖς τότε. Ἀθηναίοις πάτρια, οὐδ' ἀνεκτά, οὐδ' ἐμφυτὰ οὐδ' ἡδυνήθ' ἀπάντε τὴν πόλιν ἔδειξεν ἐκ παλιν τοῦ χρόνου πείσαι, τοῖς ἰσχύουσι μὲν μὴ δίκαια δὲ πράττουσι, προσδεμένην, ἀσφαλῶς δουλεύειν ἄλλ' ἀγωνίζομένη περὶ πρωτείας καὶ τιμῆς καὶ δόξης, καὶ κινδυνεύουσα πάντα τὸν αἰῶνα διατετελεῖκε. Καὶ ταῦτ' ἔτ' οὐ σίματα καὶ προσήκοντα τοῖς ὑμετέροις ἥδεσιν ὑμεῖς ὑπολαμβάνετε εἶναι, ὥστε καὶ τῶν προγόνων τοὺς ταῦτα πράξαντας μαλίστ' ἐπαινεῖτε—εἰκότως.—Τίς γὰρ οὐκ ἂν ἀγάσαστο τῆς τῶν ἀνδρῶν ἐκείνων ἀρετῆς, οἱ καὶ τὴν χώραν καὶ τὴν πόλιν ἐκλιπείν ὑπέμειναν, εἰς τὰς τριεὶς ἐμβάντες, ὑπὲρ τοῦ μὴ τὸ κειλυόμενον ποῆσαι; τὸν μὲν ταῦτα συμβαλόντων Ὁμηροῦ καλὰ στρατηγὸν ἐλάμβανον, τὸν δ' ὑπακούον τοῖς ἐπιτακτομένοις ἀποφράζοντο Κυροῖον καταλιθάσαντες, οὐ μοιοι αὐτὸν, ἀλλὰ καὶ οἱ γυναῖκες αἱ ὑμετέρας τὴν γυναῖκα αὐτῆς. Οὐ γὰρ ἰχθυοῦν δι' ἐπὶ τῇ Ἀθηναίων ἔτι ῥήτορα ἔτι στρατηγὸν, δι' ἔτου δουλείουσι κινεῖται; ἀλλ' ἐπὶ τῇ ἡμετέρῃ, ἐπὶ μὴ μετ' ἐλευθερίας αὐτοῖς ἔστιται τοῦτο ποιεῖν. Ἡγήσας γὰρ αὐτῶν, ἵκαντος οὐχὶ τῷ πατρὶ καὶ τῇ μητρὶ μόνον γεννησθαι, ἀλλὰ καὶ τῇ πατρίδι. Διφραῖα δὲ τίς; ὅτι ὁ μὲν τοῖς γαστρίμακτον γεννησθαι νομίζων τὸν τῆς ἡμετέρας καὶ τὸν αὐθάματον θάνατον προῖτο; ὁ δὲ καὶ τῇ πατρίδι, ὑπὲρ τοῦ μὴ ταύτην ἐπιδεῖν δουλεύουσαν ἀπαθῆσκειν ἐπὶ τῇ πόλει φέρειν ἀνάγκη, τοῦ θανάτου.” &c.

Æschines,—to say nothing of the State, or of myself?—Good God!—with what countenance could we have borne to look in the faces of strangers who arrived in the city, if affairs had proceeded to their present crisis, and Philip had been chosen Captain-General and Ruler of Greece, and others had commenced a struggle to prevent this happening, without our participation?—And that, too, when, in no former time, this country has ever preferred inglorious security to peril in pursuit of honour. For what Greek, or what Barbarian does not know full well, that both by the Thebans, and, earlier still, by the Lacedæmonians, when they were in power, and by the King of Persia himself, it would have been most thankfully conceded to this city to retain its own possessions, and to receive almost any acquisition, provided it would submit to a command, and allow another to lord it over the Greeks? But such things, it seems, were not deemed, by the Athenians of those days, hereditary, or bearable, or natural.—Nor has any man ever, during all time, been enabled to persuade this city, by adhering to those who had power, but were unwilling to act justly, to purchase security with slavery;—but, throughout its whole career, it has persevered in a contest and hazardous struggle for supremacy and honour, and glory. And these principles you deem to be so congenial with your habits, that you praise those of your ancestors the most, who have acted up to them the best. And with good reason. For who can fail to admire the virtue of those men, who endured to leave their territory and their city, and embark on ship-board, that they might not submit to a master,—having chosen for their general Themistocles, who gave them this counsel, and having stoned to death Cysilus, who declared himself for listening to the terms dictated,—and not merely so, but your very wives having stoned to death his? For the Athenians of those days did not look for an Orator or a General, by whose means they might be prosperous and enslaved: They did not deign to live, unless they were allowed to do so with freedom. For every man amongst them conceived that he was born, not merely for his father and his mother, but for his country. And what is the difference? Why, that the man, who supposes that he is born for his parents only, awaits the spontaneous arrival, and appointed time of death; but he who believes that he is born for his country also, will be willing to lay down his life that he may not see it enslaved, and will regard the contumelies and insults which he must endure in an enslaved country, as far more to be feared than death.

‘If now I affected to say that I induced you to adopt opinions worthy of your ancestors, there is no man, who might not justly reprehend me: but, as it is, I am showing, that, before my time, the State entertained these sentiments, though a share in the execution of every thing which has been done, I do affirm to be mine. But this *Æschines*, in condemning the whole in the lump, and exhorting you to regard me with aversion, as the cause of the terror and dan-

for which befel the country, is, indeed, desirous of depriving me of my temporary glory; but is, at the same time, robbing you of the praises which are your due throughout all after ages. For, if you should condemn Ctesiphon, upon the ground that my public measures were not the best possible, you will appear to have been in error, and not to have suffered that which has happened through the blind caprice of fortune. But it cannot be,—it cannot be that you have erred. O men of Athens, in *encountering danger* for the common liberty and safety of Greece. No!—By those ancestors I swear, who, for this cause, courted death at Marathon, and who stood in battle-array at Plataea, and by those who fought the sea-fights at Salamis and off Artemisium, and so many other brave men, who lie interred in the public sepulchres of the country;—*all* of whom the State buried without distinction, Æschines, deeming them worthy of equal honours,—and not those only who were * successful, or who won the victory.—And justly. For the duty of brave men was done by them all; but the fortune, which they met with, was such as Providence was pleased to dispense to them,* &c.

Such is our faint representation of a portion of this transcendent oration, the passages, both before and after, being very nearly in an equal tone of energy and elevation. For one thing only will we pledge ourselves,—that if, by our means, our readers should be induced, we do not say to peruse, but to study and digest the original, they will acknowledge their obligation. We shall now advert briefly to the French translation, before we proceed. At page 409, the Greek, 'παρβαίνειν φαίνεσθαι δὲ, γεγενημένος αὐτῷ οὐδεὶς,' is rendered, in the French, 'a violé manifestement le traité,' &c. Now, although this is not a very serious delinquency, the commencement looks rather ominous, and as if the full force of the sentence was not felt. The sense is, that Philip is not merely breaking *a* treaty,—the *then* treaty, but *treaties* (many of them), and that he had been in a long course of doing so. Again (same page), 'ἐπὶ πολὺ προάγει τὴ βίᾳ καὶ τῷ ὁμολήῃ,' &c.

* The argument is not lost sight of, for an instant, in the midst of this inflammation. The sentence containing the apostrophe is not closed, before we find it recurring; and in such a shape as induces us to suppose, that, for its sake, the oratory is introduced. Longinus says, that Demosthenes here gives a proof of the necessity of *keeping sober* even in excesses,—διδασκῶν ὅτι καὶ βαρύνεσθαι ἤδη ἀναγκαῖον. He notices, also, the dexterity and address with which the difference of success in the two cases is managed. They are not called '*Conquerors*' of Marathon, &c., but the '*Combatants*,' and then the orator is *beforehand* with any objection (τὸν ἀπερῶν φθάνων) by turning short round upon Æschines, and reminding him that *all* (whether successful or not) had equal honours.

is 'que présentment encore, pour comblé de violence et de cruauté, il s'empare des villes,' &c. Now, the direct allegation of Philip exceeding himself in violence, is made a point in the original, but, in the translation, it dwindles into a parenthesis, and the positive assertion is sunk altogether. We have also, in the same page, 'εἰς ἐνάς δὲ καὶ ἅπλ' Ἑλλήνων βαρβάρους κατοικίσεις,' rendered thus, 'reduit leur habitans en servitude, et livre à des barbares leurs demeures,' &c. But 'delivering up to the barbarians' falls short of the meaning. It *might* be for the purpose of being sacked; it *might* be for a limited period; whereas κατοικίσεις is *settling* them, —putting them in *to abide* in the place of the inhabitants, and those, too, *Greeks!*—which latter point, by the way, is lost in the Greek. At p. 410, this passage, 'καὶ ἕως μὲν πόλεις ἰάρα παραιρῆμιον αὐτὸν βαρβάρους καὶ ἰδιὰς, ὑπελάμβανεν ἕλαττον εἶναι ὁδῆμος ὁ τῶν Ἀθηναίων τὸ εἰς αὐτὸν πλημμυλῆσθαι,' becomes, in French, 'Tant que les Atheniens le voyaient s'emparer de villes barbares de leur dépendance, ils étaient moins sensibles à des injustices qui les regardaient eux seuls.' Here, again, the translation, to say the very least of it, falls short of the meaning of the original. The French 'de leur dépendance,' might apply to the case of Philip seizing some city (not Grecian) of which the Athenians were only the protectors, as being at the head of a confederacy; whereas the passage necessarily alludes to something touching them more nearly, as the 'εἰς αὐτὸν' of the original, and the 'les regardoit eux seuls' of the French itself, seem necessarily to imply. The obvious tendency of the passage is to distinguish between the aggressions of Philip *in* and *out of* Greece, and to show the *tolerable* nature of the latter, as contrasted with the former. P. 425, 'τις ἐχὶ κατέπτυσεν ἂν σὺ;—μὴ γὰρ δὴ τῆς πόλεως γε μὴδ' ἐμῆ.'—qui n'eût pas eu le dernier mépris pour vous Æschine?—car la republique et moi nous serions à l'abri de tout reproche. Here is water for you in your brandy, gentle reader! Why the meaning is not that the State and I are blameless, &c., but, 'if such a line of policy had been adopted, who would not have regarded even *you*, Æschines,—the most worthless animal in the city, with new and additional contempt,—*a fortiori*, me, et *a fortissimo*, the city itself?' P. 426.—'ἀλλ' ἰδὲ ἤν' ἡεῖον, εἰ μὴ μὲν ἡλευθερίας αὐτοῖς ἕξεται τῦτο ποιῆν.' 'Ces fiers republicains auraient mieux aimé ne pas vivre, que de vivre esclaves.' More water!—What?—When the whole surrounding passage is teeming and bursting with *proofs* of their superhuman high-mindedness and devotion,—in the most intense excitement, where, of course, not one word is wasted, to think of foisting in, as if for information, 'ces fiers republicains!'—O fie! Again, at p. 422, which we omitted in its order.—'ὥστε τὰ

ἰσχυρῶς, καὶ τὰ σπλάγχνα, ὅταν τι κακὸν τὸ σῶμα λαβὴ τότε κινεῖται,'—'les anciens fractures, et autres vices semblables,' &c. Σπλάγχνα we have translated sprains, though the word certainly signifies 'convulsions,' (the disorder of children); but sprains are occasioned by over-tension, and they seem to agree with fractures better than a substantive disorder like spasms or convulsions. The French, however, take off their hats at the difficulty (whatever it may be), and pass on. 'Fractures et autres vices semblables!' In plain English, 'Fractures, and what you please!' Once more, and we have done. P. 429. 'τῆς μέντοι διακονίας τῆς ἐφ' ἑαυτοῖς τῶν πεπραγμένων,' &c.—'je soutiens avoir prêté mon ministère a tous ses efforts magnanimes.' Now, this is not so absolutely wrong as some of the other instances; but it is not right. Demosthenes is not speaking of his *ministry*, or *administration* (ministère) which might imply *orders* given by him, and *execution* by others. The sense is,—'these *principles* I found the state in possession of,—but as to *acting* (the execution of each of the measures), that I do lay my claim to a share of.' But we will stop here, for we begin to be apprehensive that we shall be suspected of over-labouring a point no longer doubtful, and fatiguing the patience of our readers, whose opinion is, probably, in a good degree, formed upon this part of the subject. We shall, therefore, only remark at the conclusion, that these, which we have just been noticing, and others adverted to upon a former occasion, are, generally speaking, stumbles at the threshold,—failures in the very first rudiments of the business,—in giving the sense completely, or, in other words, in simple construing: But, in the higher matter,—in the part of great and acknowledged, if not insuperable, difficulty,—an attempt to transfuse the energy, passion, disdain, loftiness, power,—or, in one word, (applied by the orator to himself) the δεινότης of the original, such distortion and perversion, such glare and conceit, such points to give effect, and sustain the languor of Demosthenes,—such flashiness, prettiness, and milkiness,—mercy on us, and give us the * *prattle* of the Greek!

We shall now, more for the sake of the author than the piece, lay before our readers a specimen (one of the very few, indeed, which have reached us, and extracted from this Ora-

* This is the very phrase (ὃ ἱὲ καὶ οἷαι!) by which one of these babbling, cackling Frenchmen,—the Abbé Auger himself,—has the modesty to designate the Greeks generally, and the two Orators amongst the rest. 'Je sais que les Grecs ont toujours passé, et avec quelque justice, pour *babillards*: Eschines et Demosthène sont, quelquefois, Grecs in cela: ils *babillent* quelquefois, un peu trop,' &c. Vol. 5. p. 6.

tion) of the composition of that extraordinary person, who contributed so largely to the production of those marvellous efforts of speech which we are now considering, and of whom,—notwithstanding the taunts and sneers at ‘the man of Macedon,’—‘one educated at Pellæ,’—‘the Barbarian,’ &c. Demosthenes himself draws the following picture. ‘I beheld Philip, with whom our contest lay, for the sake of empire and power, having an eye put out, his collar-bone fractured, a hand and leg maimed,—cheerfully surrendering to Fortune whatever part of his body she pleased to deprive him of, so that, with the remainder, he might live with honour and glory.’ *ἰῶραν δ’ αὐτὸν Φίλιππον, πρὸς ὃν ἡμῖν ὁ ἀγὼν, ὑπὲρ ἀρχῆς καὶ δυναστείας, τὸν ὀφθαλμὸν ἐκκομμένον, τὴν κλεῖν κατὰ γότα, τὴν χεῖρα, τὸ σκέλος πεπηρωμένον, πᾶν ὃ, τι ἐν βουλευθείῃ μέρος ἢ τύχη τῷ σώματιος παρέλιδ’ αἶ, τὸτο ῥαδίως καὶ ἑτοιμῶς πρέμμενον, ὥς τε τοῖς λοιποῖς μετὰ τιμῆς καὶ δόξης ζῆν.*

THE * LETTER OF PHILIP.

‘Philip, King of the Macedonians, to the Senate and people of Athens—greeting. Your ambassadors, Cephisophon, Democritus, and Polycritus, having come into my presence, have conferred with me respecting the restitution of the ships, of which Leodamas had the command. Upon the whole, you seem to me to be egregious simpletons, if you suppose that it could escape me that these vessels were despatched, under the pretence of conveying provisions from the Hellespont to Lemnos, but, in reality, to succour the Selymbrians, who are besieged by me, and not included in any treaty

* This letter being very short, we shall insert it, that a judgment may be formed how nearly we have been able to make the English approach the Greek.

Βασιλεὺς Μακεδόνων Φίλιππος, Ἀθηναίων τῇ βουλῇ καὶ τῷ δήμῳ χαίρειν. Παράγονόμηναι πρὸς ἐμὲ οἱ παρ’ ὑμῶν πρεσβευταὶ Κηφισοφῶν καὶ Δημοκρίτος καὶ Πολύκριτος, διέλεγοντο περὶ τῆς τῶν πλοίων ἀφίσσεως, ὧν ἐναυάρχει Λεωδάμας. Καθόλου μὲν οὖν ἐμοίγε φαινοῖτο ἐν μεγάλῃ ἐνδοξείᾳ ἵσταςθαι, εἰ οἷσθ’ ἐμε λανθάνειν ὅτι ἐξαπεστάλη ταῦτα τὰ πλοῖα, πρόφατις μὲν ὡς τὸν σῖτον παραπέμψοντα ἐκ τοῦ Ἑλλησπόντου εἰς Ἀἴημον, βουθήσοντα δὲ Σηλυμβριανοῖς, τοῖς ὑπ’ ἐμοῦ μὲν πολιορκουμένοις, οὐ συμπεριεληγμένοις δὲ ἐν ταῖς τῆς Φιλίας κοινῇ κερμέναις ἡμῖν συνθήκαις. Ἡμεῖς ταῦτα συνετάχθη τῷ ναυάρχῃ, ἀνὺ μὲν τὸν δῆμον τῶν Ἀθηναίων ὑπὸ δὲ τινὲν ἀρχόντων καὶ ἱερέων, ἰδιωτῶν μὲν ἵν’ ὄντων, ἐν παντὶ δὲ τρόπῳ βουλομένων τὸν δῆμον, ἀντὶ τῆς ἵν’ ὑπαρχούσης πρὸς ἐμὲ Φιλίας τὸν πόλις ἀναλαβεῖν, πολλοὺς μᾶλλον φιλοτιμουμένους τοῦτο συντελεῖσθαι, ἢ τοῖς Σηλυμβριανοῖς βουθήσαι, καὶ ὑπολαμβάνουσιν αὐτοῖς τὸ τοιοῦτον προσδοκῆσαι. Οὐ μέντοι μοι δοκεῖ τὸντο χρήσιμον ὑπάρχειν οὐδ’ ὅμιν, οὐτ’ ἐμοί. Διόπερ τὰ τε ἵν’ καταχρήσασθαι πλοῖα πρὸς ἡμᾶς ἀφίημι ὑμῖν, καὶ, τῷ λοιποῦ, ἐὰν βούλησθε, μὴ ἐπιτρέψαι τοῖς περὶ ὑμῶν κακοῦθ’ οὖς πολιτευέσθαι, ἀλλ’ ἐπιτιμᾶσαι, καὶ ἐὰν διαφυλάττειν τὴν ἐρήνην.—Εὐτυχῆτε.—*Reiske*, v. 2. 250. *Plutsche*, v. 5. 314.

of peace now subsisting between us. And these orders were given to the Admiral, without the privity of the Athenian people, by certain magistrates and others, who now are in a private situation, but are contriving, by every possible means, that the people should resume hostilities, instead of the amity, which, at present, exists with me;—being much more anxious to effectuate this object than to assist the Selymbrians, from a belief that this result would be of some benefit to themselves. I, however, am of opinion that it would not be advantageous either to you or to myself. For which reason, I refuse you the vessels which have been brought into my harbours, and for the future, if you should resolve not to allow your leaders to adopt their mischievous politicks, but will reprimand them, I, also, will endeavour to preserve the peace. Fare ye well!

We now lay before our readers a portion of the passage respecting the capture of Elatea, to which we have already adverted, and which, as it stands earlier in the Oration, should, more regularly perhaps, have been our first specimen.

‘It was evening. A messenger came to acquaint the Prytanes that Elatea was taken: whereupon, some of them, instantly starting from the table at which they were sitting, cleared the booths in the Forum, and set fire to their wicker coverings; others summoned the commanding officers, and ordered the alarum to be sounded. The city was filled with consternation. When the next day broke, the Prytanes convoked the Senate in the Senate-house; you repaired to your own assembly; and before they could adopt any measure, or even enter upon their deliberations, the whole people had seated themselves upon the steps. And now, when the Senators came forth, and the Prytanes announced the intelligence, and presented the bearer of it, and he had himself related it, the herald made proclamation, if any one desired to be heard? No man stood forward. He repeated the proclamation again and again. No person rose the more, of all the captains, of all the orators, who were there present, though the cries of our common country were heard imploring some one to lift his voice and save her. For we may justly regard the call which the herald then made, in the solemn form of the law, as proceeding from the country. And truly, if the only qualification to come forward then had been an anxiety for the publick safety, all of you, and every other Athenian too, might have risen and ascended the Rostrum; for I am well aware that all were anxious to save the State. If wealth had been the qualification, we might have had the three hundred;—if munificence, those, who in the sequel became such ample voluntary contributors, evincing, at once, their riches and their patriotism. But that was, manifestly, the crisis,—that the day not merely for a wealthy and patriotic individual to bear a part; but for one, who had from the very first kept pace with the progress of affairs, and happily penetrated the motives of the conduct and the designs of Philip. For a man unacquainted with these,—one who had not anxiously surveyed them from their first appearance, might

be ever so rich and ever so zealous, and yet be none the more likely to descry the best course, and to give you the soundest counsel. In that day then, such a man was I,—and standing up I spoke to you, what you must once more attentively listen to, with two views:—first, that you may perceive how, alone, of all the orators and statesmen, I did not abandon the post of patriotism in the hour of peril, but, both by my words and my actions, discharged my duty to you in the last emergency;—next, that, at the expense of a little time, you may acquire a fuller insight into our whole polity for the future,’ &c.

Our version of the *ἄνω καθῆτο* we certainly consider doubtful. We translate ‘*τοι σάλπιγγι καλῶν*,’ ‘ordered the alarm to be sounded,’ not, of course, from any difficulty in giving the Greek literally, but because we have nothing analogous in our customs. We also make ‘*σογύβει*,’ ‘consternation;’ and we are pretty confident that no single word in the language comes nearer to the original, but it falls far short of it. That gives you one of the prominent effects and consequences of terror—the *bustle* of consternation—the *running of people against each other* in the hurry of a panick. The French, by the way, render ‘*νέερα*’ (at the commencement of this passage) ‘*merchandises*.’ It is very well, that, for the sake of *effct*, they did not translate it, ‘set fire to the market-people themselves!’ So far as the Greek is concerned, they might as well. But no more of this.

The commencement of this Oration, although short, and leading at once *in medias res*, is nevertheless, as has been remarked by an ancient critic—Dionysius, we believe—in a tone of very great earnestness and intensity. This is perceptible enough; but of another quality which it possesses, from our knowing so little of the pronunciation and the rhythmic structure of the sentences, we are in a great degree ignorant, or we must be content, at best, to take the existence of it for granted. Certain however it is, that the great critic just mentioned, who did understand the niceties of his own language, has taken pains to inform us of the exquisite choice and arrangement of the words in this, we are therefore to conclude, highly wrought and elaborate exordium. Dionysius proceeds in this examination with the same degree of particularity as we have formerly noticed Longinus employing upon another passage, and points out the delicacy in the choice of the expression, and the happiness of the arrangement; and how far, and in what respect, any substitution or change of position would destroy or impair the effect. Nor is it any very violent stretch of critical faith in us to believe that there is a great deal in

these remarks, depending as they do upon reasons, of the validity of which we cannot judge, when we see the undeniable and unquestionable good sense and judgment of this same author upon points where we are more able to form an opinion for ourselves. The conclusion, short and simple as we have already observed it to be, is, nevertheless, as nearly as possible, in the same tone as the commencement. And in judging of it, we must bear in mind, that the address to the gods was by no means a mere flourish of oratory, if meant to be so at all; but Demosthenes, in that ejaculation, was probably at least half as much in earnest as many petitioners now-a-days are in their devotions. The *sting* which the orator wished to leave in the minds of his hearers, was the constant hostility of Æschines and his partisans against their country, and their zeal in promoting and perpetuating the power of Philip and his successor. He then concludes thus,—‘Never, never, O all ye gods, may any of you sanction their endeavours! but rather may ye infuse even into *them* a better mind and disposition! If, however, they be thus incurably perverted,—send them—themselves by themselves—to utter and swift destruction both upon land and sea! and vouchsafe to us, who remain, the speediest deliverance from our impending dangers, and lasting security.’—‘Μὴ δὴτ’, ὦ πάντες Θεοὶ, μηδὲς τῶνδ’ ὑμῶν ἐπινύσσειν· ἀλλὰ μάλιστα μὲν καὶ τούτοις βελτίω τινὰ νοῦν, καὶ φρένας ἐνδέησσι. Εἰ δ’ ἄρα ἔχουσιν οὕτως ἀνιάτους, τούτους μὲν, —αὐτοὺς κατ’ ἑαυτοὺς, ἐξώλεις καὶ προώλεις ἐν γῇ καὶ θαλάττῃ· ποιήσαίτε ἡμῖν δὲ τοῖς λοιποῖς τὴν ταχίστην ἀπαλλαγὴν τῶν ἐπηρετμένων φόβων δότι, καὶ σωτηρίαν ασφαλή.’ We know not whether Cicero had this passage in his eye at the conclusion of his first Catilinarian; but it seems probable that he had. However, as the part we allude to is very short, and the passages are somewhat characteristic of the peculiar manner of the two orators,—intensity and splendour, though, if taken by themselves as specimens, the selection would be too favourable to the Roman, we give it. The Senate, as our readers are well aware, being assembled in the temple of Jupiter * Stator, he thus apostrophizes their tutelary god. ‘Tunc tu, Jupiter, qui iisdem, quibus hæc urbs, auspiciis, a Romulo es constitutus, quem Statorem hujus urbis atque Imperii verè nominamus, hunc et hujus socios a tuis Aris cæteris-

* So called, according to Seneca, not from his *stopping* the Romans in their flight from the Sabines, but from his general superintendence and providence. ‘Qui non (ut historici tradiderunt) ex eo quod post votum susceptum acies Romanorum stetit, sed, quod stant beneficio ejus omnia, Stator, Stabilitorque est.’—*Seneca de Benef. Lib. 4.*

que Templis, a tectis urbis ac mœnibus, a vita, fortunisque civium omnium arcebis; et omnes inimicos bonorum, hostes Patriæ, latrones Italiæ, scelerum fœdere inter se ac nefariâ societate conjunctos, æternis suppliciis vivos mortuosque mactabis.' When we are upon this subject, we may as well notice, in confirmation of what we lately observed, that, in the very next oration of Cicero, delivered almost immediately after the first, there is a proof that appeals to, or solemn mention of the gods, were matters pretty much of course with the ancients, when they were very much in earnest. At the end of his second speech against Catiline, after having explained to the people the measures adopted for the suppression of the conspiracy, and what had been passing in the Senate, Cicero declares to them, that his confidence as to the result is not from any reliance upon human wisdom or counsel,—'but many and unequivocal revelations of the immortal Gods,'—'multis et non dubiis Deorum immortalium significationibus.' He then closes with that gorgeous amplitude and efflorescence of speech for which he is so distinguished. 'Whom it is your duty, my fellow-countrymen, to entreat, to worship, and to implore, that they may defend this city, which it has been their good pleasure to make the fairest, the most flourishing, and the most powerful upon earth, now that every force of an enemy, both by land and sea, has been put down, from the desperate wickedness of most abandoned citizens.'—'Quos vos, Quirites, precari, venerari, atque implorare debetis, ut quam urbem pulcherrimam, florentissimam, potentissimamque esse voluerunt, hanc, omnibus hostium copiis terrâ marique profligatis, a perditissimorum civium nefario scelere defendant.'

Much might be written, if our limits would allow it, upon subjects connected with this oration (we mean, of course, the principal oration of which we are treating), not adverted to by the ancient criticks, whose chief concern seems to have been with the composition. The arrangement of the topicks, however, is as powerful, as the topicks themselves are judicious, and the treatment of them perfect. The commencement is addressed to the usual purpose of conciliating his audience, and getting rid of a great and serious difficulty, which his good sense suggested to him as incumbering the whole case, and crippling all his efforts,—the necessity of speaking of himself. This object is effectuated with the greatest openness, sincerity, and earnestness. He fearlessly vouches, at once, his constant attachment to his country, and dexterously contrives to exonerate himself of the odium attached to commendation of himself by, apparently, a sincere aversion to it, and even contrives to cast it

upon his antagonist. The fault, he says, is with Æschines, in bringing forward (and that so late) a trial of his whole life and measures, which he could not defend without speaking of himself. The difference between the conduct of Demosthenes upon this subject, and the pitiable egotism of Cicero upon all occasions, is truly striking. The breach of the laws as to the time and manner of crowning, he felt to be his main difficulty; and, therefore, before he touches upon that, he takes care to divert and engage his audience by a hasty and rapid sketch of past events,—the unremitting hostility of Philip, his own opposition to him, and the treachery of Æschines,—taking especial pains to inflame the Athenian nationality, by giving them a taste merely of the topicks in which they most delighted. He then (and not before) * ventures upon the Laws respecting the Crown, with the breach of which Ctesiphon was charged, and affects to meet the argument with the utmost coolness and intrepidity. He takes care, however, to run away from it as soon as he decently can, and even affects to have been *diverted*, by the notice of it, from the main course of his observations. He then joyfully returns to the general topicks, at which he had before merely glanced, and in the expansion of them—in endeavouring to show that their failure was the fault of Fortune, but the merit of acting up to the glory of their ancestors was with them, the Athenians, and the merit of giving them that advice with him, the Orator—he breaks out into a long-continued strain of more than † mortal eloquence, which leaves every competitor of every age and country utterly out of sight. A comparison is then made between his own means and those of Philip in the contest, and great care is taken to remind the Athenians that he was hindered by an eternal ‘*stumbling-block*,’ the thwarting of Æschines and the ‘*Philippising party*.’ Adverting next to their respective powers of speech, (and he passes over his own in a parenthesis, by merely admitting what his adversary had imputed to him) he draws a comparison of the manner in which they have been employed,—the one for the country, the other against it. Afterwards follows an examination of their private conduct and character; and, upon this subject, are exhibited some of the most inflamed, exaggerated, and highly wrought

* Æschines, in his speech, endeavours (and with great ingenuity and power) to confine Demosthenes to this point.

† Il suspend ici pour un instant sa narration, et avec une éloquence *plus qu'humaine*, il montre qu'on n'avait pas d'autre parti à prendre, que celui qu'on a pris, &c.—*Sommaire par L'Abbé Auger.*
—*Planche*, v. 5. p. 17,

passages in the whole oration, but differing mainly from our habits, and, therefore, not fit for translation. He concludes with giving his idea of a good citizen, taking pains to give *Æschines a palpable hit* at every turn, and, with as little offence to his audience as possible, to draw inferences in favour of himself; and finally returns (as we have seen) to the old subject—the early and steadfast zeal of his adversaries in the cause of Philip and his successor. And so he rests his case with the judges. The result, in spite of the laws, is well known.

We shall now lay before our readers one or two attempts at a version of passages from the smaller Orations. In the first Philippic, after describing the sort of conduct which usually leads to success, the Orator goes on thus.—‘ If then, O men of Athens! you also choose to be thus resolved now, since you would not before, and every one of you, where it is required, and so far as he is able to make himself useful to the country, laying aside all pretences, shall be willing to act,—the rich by contributing,—those within military age by serving;—to speak plainly, in one word, if you are willing to be yourselves, and each man shall cease to hope that he may do nothing himself, and that his neighbour will do every thing for him, you may, by God’s permission, obtain your own, and recover what your indolence has thrown away, and avenge yourselves upon Philip. For never let it be supposed that his affairs are eternally fixed in their present position, as if he were a god: One hates him, another fears him, a third envies him; O men of Athens! even amongst those, who appear to be most intimately connected with him; and all those feelings, which are common to men in such situations, we must suppose to belong to those who are now associated with him; but, as it is, they are all kept down by fear, having no where to turn to, through your sluggishness and indolence, which I say you must lay aside now. For look only, O men of Athens! at the state of the case,—at what a pitch of effrontery the man has arrived,—not to give you any longer a choice, whether you will act, or whether you will forbear; but he threatens you and uses lofty language, as we are told, and cannot be content to remain in peaceable possession of the conquests he has made, but is continually encroaching upon you in all directions, and drawing a net completely round you, who sit still and look on.

‘ When, O men of Athens! when will you do what you ought? When something shall happen! When some necessity shall arise! Why, in what light do you view your present situation? For I think the most pressing necessity to free men is the disgrace attached to failure. Are you content, tell me, to walk about the market-place, and inquire of each other what news? * Why, can any thing be more new,

* The Greek is γίνετο γὰρ ὅτι τι καινότερον, &c.;—‘ For, can any thing be more new?’ &c.—implying a reason for something said im-

than for a man of Macedon to vanquish the Athenians, and rule the affairs of Greece? Is Philip dead? No, by Heavens! but he is sick. And what is it to you? For were this Philip to die, you will soon raise up for yourselves another, if such be your way of attending to your affairs. For he has not been thus aggrandized so much by his own power, as by your neglect. Moreover, be assured of this, that if any thing should happen to him, and Fortune should favour us, which always provides for us so much better than we for ourselves (and may her efforts for us be complete!) by being upon the spot, and taking advantage of the confusion, into which all things would be thrown, you might dispose of them at your pleasure. But in your present state, not even when an opportunity puts into your hands Amphipolis, can you take it, lagging behind as you do, both in your preparations, and your resolutions.'

Shortly after, in the same speech, upon some letters of Philip to the Eubæans having been read, there are the following observations.

'Much of what has been read is true, O men of Athens! though it ought not to have been so, and is moreover not pleasant to hear. And if the speaker, by omitting to make mention of any thing, could cause the thing itself not to exist, speeches should be made to please. But if flattery in speeches, when uncalled for, be injury in fact, it is disgraceful, O men of Athens! for you to deceive yourselves, and, deferring every thing attended with trouble, to be too late in all your enterprises,—and not to be able to learn that those who make war properly ought not to follow after affairs, but to be before hand with them. For, just in the same manner as it would be expected of a general to manage an army, so ought those, who resolve wisely, to manage affairs, that what they wish for may be accomplished, and that they may not be compelled to hunt after events. * But you, O men

mediately before, and, of course, connexion. The truth is, that Demosthenes, in his rapidity and vehemence, assumes and omits some such sentence, as the one in Italicks. 'Are you content to go about, &c. asking what news?' *Why, how can you be so silly as to ask such a question, when you cannot but know that there is news enough? For, what can be more new,* &c. Longinus, as our readers are aware, in his section upon interrogation (τιυσεις και ερωτησεις) selects this characteristic passage as an illustration of the topics being, in this shape, more condensed, and therefore more effective and commanding (μπερκετότερον και σοβαρώτερον) than in the ordinary form of direct statement and allegation.

* 'Ἰμέας δὲ, ὦ ἄνδρες Ἀθηναῖοι, πλείστην δύναμιν ἀπάντων ἔχοντες, τμήρεις, ὀπλίτας, ἱππίας, χρημάτων πρόσδοον, ταῦτά μιν μέχρι τῆς τήμερον ἡμέρας, οὐδενὶ πάνποτε ἐν δυνάμει κέρησθαι, οὐδένος δὲ ἀπολείπεισθαι· ὥσπερ δὲ οἱ Βάρβαροι πυκνύουσιν, οὕτω πολεμεῖτε Φιλίππῳ· καὶ γὰρ ἐκείνων ὀπληγείς ἀεὶ τῆς πληγῆς ἔχεται, καὶν ἐτίρωσι πατάξῃ τις, ἐκείνη εἰσιν αἱ χεῖρες· προβάλλασθαι δὲ, ἢ βλί-

of Athens, who have the greatest resources of all people—ships of war, infantry, cavalry, revenue—up to this hour have never employed any of them as you ought, though you are deficient in none; but you wage war with Philip as unskilful boxers fight. For one of these; when he is hit, always feels at the place, and, if he receives a blow somewhere else, away go his hands to the spot,—but how to stand upon his guard, or to look his adversary in the face, he neither knows nor cares. So you, when you learn that Philip is in the Chersonese, determine to send reinforcements thither,—if at Thermopylæ, thither—and, if elsewhere, you bustle up and down after him, and are commanded by him, but resolve upon nothing beneficial to yourselves concerning the war, nor ever foresee any single thing until you learn that it has happened, or is actually happening. Time was, perhaps, when it was allowable to pursue such courses; but now matters are come to a crisis, and it is so no longer.’

The following passage is from the 4th Philippic, and requires no explanation.

‘ Suppose now, Aristodemus, (invective apart) you were asked how it comes to pass, that, though well aware of, what indeed every one knows, the calm and the ease and security of a private station, and the anxiety and slipperiness, the daily vexations and perils which chequer public life, you yet should prefer a stormy existence to quiet and repose;—What could you say? If you gave the best answer, and we were willing to admit its truth, that your motive is the love of honour and renown; I should still marvel how a man, disposed for this gratification to encounter every toil and suffering and hazard, can counsel *his country* to sacrifice all such considerations for the love of ease. For surely you cannot pretend that *you* have some dignity to support in Athens, but that *Athens* has none to maintain amongst the States of Greece. Nor do I precisely see how the safety of the state should depend upon attending only to its own concerns, if your chief peril lies in not meddling, more than any body else, with business not your own. On the contrary, you and the state are in jeopardy,—you from doing and overdoing—she from inaction. But then it seems (God help us!) that it would be a shame if the glories which you derive from your father and ancestors should be tarnished in your person! But that the country has inherited from its forefathers only mean and nameless renown. Not so,—your father was a ruffian, if he resembled you. Our ancestors, as all the States of Greece well know, twice saved them from the most prodigious dan-

πει ἐναντίον, ὅτε οἱ δεινὸν ἔδειλε. Καὶ ὑμεῖς ἐὰν ἐν χειρὶ ῥονήσω πύθησθε Φιλίππον, ἐκείσε βολεῖν ψήφισσιν· ἐὰν ἐν Πύλαις, ἐκείσε· ἐὰν ἀλλοδίῳ του, συμπαραδῆτε ἄνω καὶ κατωὶ καὶ στρατηγείσθε μὲν ὑπὲρ ἐκείνου, βιβούλευσθε δὲ οὐδὲν αὐτοῖς συμφέρον περὶ τοῦ πολέμου. οὐδὲ πρὸ τῶν πραγμάτων προσεῖπτε οὐδὲν, πρὶν ἢ ἡ γυνήμενον, ἡ γιγνόμενον τι πύθησθε. Τὰῦτα δὲ ἴσως πρότερον μὲν ἦν παλαιῶν· νῦν δὲ ἐπὶ αὐτὸν ἡκετὴν τὴν ἀκμὴν, ὥστ’ οὐκ ἔτι ὑγχαρεῖ.

gave. But, in truth, some men mete out a very different measure, both of justice and prudence, to themselves and to the state. For what fairness is there in men, who have just escaped from prison, wholly forgetting their place; while the nation, which was wont to fill the first rank amongst the Grecian States and sway their destinies, is now to be sunk in absolute ingloriousness and insignificance?'

Our last attempt shall be to give our readers a faint representation of the conclusion of *Æschines's* Oration, to which, and its author, we alluded in our last Number. After the commendation there bestowed upon him, we shall only add, that the great critick, so often referred to, evidently considers him as no unworthy antagonist of Demosthenes. For although Dionysius says that he is 'more relaxed' (*ἀτονώτερος*) than the other, and 'not a perfect master of his art' (*οὐ πᾶν ἐντέχνος*); yet that 'he is abundantly supplied with natural readiness, and wonderfully clear, and impressive, and inflammatory, and pointed,—and, though with the appearance of softness to a superficial observer, yet, upon closer examination, powerful.'—('τῇ δὲ παρὰ τῆς φύσεως εὐχερέα κερκηρμένος' καὶ σφοδρὰ ἐκρηγνὺς, καὶ βαρὺς, καὶ ἀνελκτικός, καὶ πικρὸς, καὶ ἥδυν μὲν αὐτοῖσιν ἐντυχόντι, σφοδρὸς δὲ ἐξισταθείς.') We take up the speech where the Orator is urging Ctesiphon to *defend himself!*

'What?—Is the man, whom you propose to be crowned, of such a description, that he cannot be known by those who have been benefitted by him, unless there be somebody to speak for you? Ask, then, the judges if they knew Chabrias, and Iphicrates, and Timotheus, and inquire of them, wherefore they gave them rewards and erected statues to their honour? They all, with one voice, will answer, that it was to Chabrias, on account of the naval victory at Naxos,—to Iphicrates, because he cut in pieces the Lacedæmonian legion,—to Timotheus, for the relief of Corcyra,—and to others, because many and honourable exploits had been performed by them in war. And if any one should inquire of you, why you will *not* give them to Demosthenes, your answer should be, Because he has taken bribes,—because he is a coward,—because he has deserted his post in the field! And whether (think you) will you honour him, or dishonour yourselves, and those who have died for you in battle—whom imagine you see bewailing—if this man shall be crowned? For it would be monstrous, O Athenians! if we remove out of our territory stocks, and stones, and pieces of iron,—mute and senseless objects, if, by falling upon persons, they have been the cause of their death, and if any one shall commit suicide, we bury the hand which did the deed, apart from the body, and you shall honour Demosthenes, O Athe-

* Ἡ τοιοῦτός ἐστιν, ὃν γεγράφας στεφανοῦσθαι, οἷός μὴ γινώσκουσθαι ὑπὸ τῶν τοῦ παροῦστος, ἀν κή τίς σοι συνίποι; &c.—*Planche*, v. 5. p. 222.—*Oxf.* p. 142.

nians!—the man who proposed the last of all your expeditions, and betrayed your soldiers to the enemy! Why then the dead are dishonoured, and the living become dispirited, when they behold death the appointed prize of valour, and the memory of the dead fading away.

‘But,—what is the most important of all, if your youths should inquire of you, upon what model they ought to form their conduct, what will you answer? For you well know, that it is not the Palæstras alone, nor the schools, nor * musick, which instruct your youth, but much more the publick proclamations. Is any man, scandalous in his life, and odious for his vices, proclaimed in the theatre as having been crowned on account of his virtue, his general excellence and patriotism!—the youth who witnesses it is depraved. Does any profligate and abandoned libertine, like Ctesiphon, suffer punishment!—all other persons are instructed. Does a man, who has given a vote against what is honourable and just, upon his return home, attempt to teach his son? He, with good reason, will not listen; and that, which would otherwise be instruction, is justly termed inportunty. Do you, therefore, give your votes not merely as deciding the present cause, but with a view to consequences—for your justification to those citizens, who are not now present, but who will demand an account from you of the judgment which you have pronounced. For you know full well, O Athenians! that the credit of the city will be such as is the character of the person who is crowned; and it is a disgrace for you to be lilened, not to your ancestors, but to the cowardice of Demosthenes.’

[The Orator here notices their depraved usages, generally, as compared with the better times of the republick, which, not to swell our extract too much, we omit. He then resumes the particular subject thus:]

‘There once was—(I grieve so often to bring to mind the disasters of the city)—a private man here, who, for only attempting to sail away to Samos, was that very day condemned to death by the Senate of the Areiopagus as a traitor to his country. Another private person, having set sail for Rhodes, was lately brought to trial, because he could not face danger like a man, and the votes were even for him; but if one single vote had fallen short, he would have been banished, or put to death. Let us compare the present case. † A man of words, the cause of all our evils, has deserted his post

* This is not the only passage where honourable mention is made of Musick. Socrates, in Plato’s preface to his Funeral Oration, accounts for his proficiency in speaking from the excellent tuition under which he was,—*Aspasia* instructing him in Rhetorick, and *Connus* in Musick.—‘*οὗτοι γάρ μοι δύο εἰσι διδάσκαλοι*’—*ὁ μὲν μουσικῆς, ἡ δὲ ρητορικῆς.*

† *Ἀνὴρ ῥήτωρ, ἀπάντων τῶν κακῶν αἰτίας, ἔλιπε μὲν τὴν ἀπὸ στρατοπέδου τάξιν,*
&c.

in battle, and run away from the city,—and this man demands to be crowned, and thinks it fit that he should be proclaimed!—Will you not dismiss him as the common calamity of the Greeks, or seize and punish him as the plunderer of your affairs, * sailing through his public administration upon words? Remember also the season, at which you are giving your vote: In a few days the Pythian games are about to take place, and the assembly of the Greeks to be collected. Our city is scandalized on account of the measures of Demosthenes at this very crisis. And you will appear, if you should crown him, to be of the same mind with those who are violating the common peace; but if you act contrariwise, you will acquit the people of the charge.

‘Do you therefore deliberate, not as on behalf of a foreign country, but your own, and do not distribute your honours as of course, but discriminate, and set apart your rewards for more worthy persons and men of better account. And make use not of your ears only, when you consult, but of your eyes, looking round amongst each other to see, what manner of persons they are, who are about to come forward in support of Demosthenes;—whether his partners in the chase, or companions in exercises during his youth. But no,—by the Olympian Jupiter!—he has not been in the habit of hunting the wild boar, or attending to graces of the body, but he has been constantly practising arts to rob the wealthy of their estates. Bear, also, in mind his boastfulness, when he asserts, that he rescued Byzantium out of the gripe of Philip as ambassador, and drew off the Acarnanians from his cause, and roused the Thebans by his harangues. For he supposes that you are arrived at such a pitch of simplicity as to be gulled into a belief of all this, as if you were cherishing amongst you, not a vagabond of a common informer, but the goddess of persuasion herself.

‘But when, at the conclusion of his speech, he shall call before you, as advocates, the partakers of his bribes, believe that you see, upon this rostrum, where I am now standing to address you, drawn up in array against their effrontery, the great benefactors of their country—Solon, who adorned the democracy with the most excellent laws,—a wise man, a good lawgiver, mildly, as befitted him, entreating you not to make the speeches of Demosthenes of more avail than your oaths and the laws;—Aristides too, who settled their contributions for the Greeks, and upon whose death the people portioned his daughters, exclaiming against the dishonour of justice, and demanding, if you are not ashamed that your ancestors were upon the very point of putting to death Arthmius of Zelia, who brought the money of the Persians into Greece, and journeyed in to our city being

* ἐκ' ἰνομάτων διὰ τῆς πολιτείας πλείοντα, &c. The idioms of the languages agree here.

then a publick guest of the people of Athens, but did expect him from the city and all the dependencies of the Athenians,—and that you are about to crown Demosthenes, who did not bring the money of the Persians into Greece, but himself received bribes, and moreover even now retains them, with a golden crown! Do you not imagine that Themistocles also, and those who fell at Marathon and at Plataeæ, and the very tombs of our ancestors, will raise a groan, if this man, who, avowedly siding with Barbarians, opposed the Greeks, shall be crowned?

‘I then,—I call you to witness, ye Earth, and Sun!—and Virtue, and Intellect, and Education, by which we distinguish what is honourable from what is base,—have given my help and have spoken. And if I have conducted the accusation adequately, and in a manner worthy of the transgression of the laws, I have spoken as I wished;—if imperfectly, then only as I have been able. But do you, both from what has been said, and what has been omitted, of yourselves, decide as is just and convenient on behalf of the country.’

We have, on more than one recent occasion, been called upon to remark, that there are amongst us, at present, sufficient indications of a false and perverted taste. Nor is it a matter of surprise. Persons, who despair of arriving at the destined point of eminence by the highway of nature and good sense, plunge into devious courses, like mariners at sea without a compass, throwing the reins upon the neck of a fiery and * *drunken* imagination,—a headstrong and runaway fancy, under no guidance or discipline, and free from the control of reason. Those who, like the Carians and Mysians of old, according to Cicero, are of a gross and greasy appetite, can relish nothing but what is fit to lay before an alderman,—the well-fed, sleek, plump, stuffed and larded species of composition; whilst the delicate, the exquisite and refined, with an affected or morbid sensibility, require clouds of aromatick incense, and pungent odours to be continually applied, till their concentrated virtue tortures the sense. And this is not an affair of *manner* merely. A relish for false and glaring ornament,—the *dulcia vitia* in expression, fully acquired, leads, by a necessary, and immediate transition, to the introduction of unnatural incidents, far-fetched thoughts, and the numerous *et cæteras* of vitious composition.—Not that we would insinuate that the great body of public opinion is not sound,—to preserve which we unceasingly use our best endeavours,—or that there is now the same danger as formerly beset, not good taste

See the remark of Longinus, already quoted.

merely, but the English language itself, from the desperate innovations of Johnson and Gibbon. In the conflict which then took place between the enemies and defenders of our mother tongue, the army of Englishmen,—the idiomatic writers—Addison, Dryden, Pope, Steele, Swift, and their associates,—had no small advantage from being firmly intrenched behind the precedents and models of antiquity. Although the practice of Cicero may not always have been in perfect conformity with his best and most deliberate opinion,—owing, doubtless, in a great degree, to his prodigious ascendancy in the art, even to superfluity and redundancy; yet when we see, in his most highly finished and matured work on Composition (for what else is Oratory when we are speaking of such a master?), that there can be in his judgment ‘no more capital fault than a wilful departure from ‘accepted and idiomatical expression,’* ‘in dicendo vitium ‘vel maximum esse, a vulgari genere orationis, atque a consuetudine communis sensus abhorreret;’—when, above all, the purity and simplicity of the universally admired Grecian models are attended to, the weight of such authority could not but have been of great avail on the side of the true men. But for this assistance, we confess that we think the issue of the contest between the canonical and apochryphal authors might have been more doubtful. The very assumption of innovation has an imposing air; and those who are either without any principles to regulate them, or are content with the first blush and appearance of things, readily take for granted that there is, in the departure from an established course, at least the merit of invention, and the recommendation of overcoming difficulties; whereas the pleasant part of the story is, that directly the reverse is the fact. We doubt not that there are in this country five hundred persons (probably fifty times the number) who could, if they thought it worth their while, in the course of a month, produce an Essay, which might be bound up in the next edition of the Rambler, and pass, with ordinary observers, for a paper of Johnson. But how few are there, who, if they were ever so anxious to do so, could rival the apparently easy and familiar, but really elaborate, grace and elegance of Addison, who in his way, and as far as he professes to go, can hardly be surpassed?

We here abstain from renewing the course of observation, which we fell into in our last Number, upon the application of the ancient, and particularly the Greek style to modern use, and have not space for farther examining the opinion of Hume, ‘that if the manner of Demosthenes could be copied, its suc-

'cess would be infallible over a modern assembly.* Nor shall we waste our reader's time and our own by unnecessary, and, to those who had not already anticipated us we may add, unavailing, recommendations. We are in possession of no short or summary method of *snatching* this manner, though the French dash through the subject in a page or two, ('Moyens d'acquiescer la veritable eloquence.' Pref. Vol I. p. 71.); and Longinus himself seems to think (we own we cannot agree with him), that he has furnished a hint of some value, when he suggests that, in order to acquire the style of Demosthenes or Plato, a person should sit down and reflect how either the one or the other would have 'elevated' (ἐψήσας) the subject. We shrewdly suspect that this would prove to be a barren and unprofitable speculation, and that Horace is much nearer the truth, when he recommends, for the desired object of imitating the Grecian models, 'a daily and nightly perusal of them.'—But this in passing: For we purposely confine these, our concluding remarks, to one single point,—the *safety* with which these great masters of antiquity may be studied. Assuredly, and at all events, they will never mislead us into any error from which it may become necessary to retrace our steps, or undo what has been done. No person will acquire from them a craving and aching desire for the incessant application of noxious stimulants,—the *dramming* of composition. In them will be found no luscious and surfeiting sweetness,—no misplaced and tawdry † ornament,—no mawkish and distempered sentiment,—no sparkling and extravagant conceits. Amongst them roses are not covered with vermilion to heighten their colour, or smothered with some nice titillating powder to add to their perfume. Theirs are the solid, vigorous, general, enduring beauties of Nature.—You may add if you please,—you may alter if you dare,—you may improve if you can;—but there stands the building, of ample and well-adjusted proportions, of subdued and retiring, but exquisite beauty, of severe but real grandeur, upon which twenty centuries have not been able to commit any ravage—nor shall it sink under the stroke of Time. 'To them, therefore, (Homer, Plato, and Demosthenes are

* Essay on Eloquence.

† Isocrates, we learn, was fifteen years in completing his principal Oration: Yet, so far was he from loading this his favourite daughter, patch by patch, with gorgeous apparel, so as to bring her out, at last, in a full birth-day suit of magnificent decoration, that one would rather think, from the perfect absence of all glitter, he had spent the time in *undressing* her.

‘particularly alluded to) shall every age and generation, whose judgment is not perverted by envy, bring and offer the wreath of victory, and shall guard the offering inviolate, and are likely to continue to do so, whilst water shall flow, and the lofty trees flourish.’—‘Διὰ τούτ’ ὁ πᾶς αὐτοῖς αἰὼν καὶ βίος, ὃν δυναμνος ὑπὸ τοῦ φθονὸς παρανομίας ἀλῶναι, φέρων ἀπιδάκα τὰ νικητήρια, καὶ ἄχρητῃ ἀναφάριστα φυλάττει, καὶ ἔοικε τηρεῖν,

‘Ες τ’ ἂν ὕδωρ τε ῥέη, καὶ δένδρεα μάκρα τεθῇλη.’—*Long.*

Amidst such idolatrous panegyrics,—when, moreover, we learn, from no mean authority, that one single city,—the eye indeed of Greece, was ‘the inventress of all learning’ (‘illæ omnium doctrinarum inventrices Athenæ!’ Cic. de Orat.), an inquiry naturally suggests itself,—how fares it, at this moment, with the inheritors of this land—the fairest portion of the earth, from which have issued poets, historians, philosophers, orators, patriots, in such a continued stream of glory? Where now is the tribute paid, so justly due, for the civilization and improvement of mankind? Who guards the offering at the shrine of genius, of which the critick speaks? What nation is the foremost in discharging the debt of gratitude to the ancestors, by conferring benefits upon their descendants? To this inquiry it is our unwelcome task to answer, that the children of this renowned race, after having endured, for nearly five centuries, a more than Egyptian bondage under the most austere and insolent task-masters that have ever yet vexed and tormented any portion of mankind,—after having been the slaves of the meanest and basest of slaves,—the sport and plaything of * eunuchs and panders, have at length risen as one man, and, drawing the sword, have cast away the † scabbard, to redeem themselves from slavery, and purge the foul stain from the name of Greece: That this strife, in such a cause, has now endured for upwards of twelve months; and that England, with the name of Liberty upon her lips,—the supposed patroness of the injured and oppressed, (we say nothing of actual assistance, but) has not vouchsafed to encourage and hearten them in their career, by one cheering smile of approbation,—by one animating expression of applause: Nay, more, that, not content with cold indif-

* Athens is the property of the Kislar Aga (the slave of the Seraglio, and guardian of the women), who appoints the Waywode. A Pander and Eunuch—these are not polite, yet true appellations—now governs the Governor of Athens!—*Lord Byron’s Note to the Giaour.*

† This was the way with the men of old. When the Persians came to demand earth and water in token of submission, the Spartans and Athenians tossed them into a muddy ditch, telling them to help themselves—there was plenty of both!

ference and selfish apathy, this same England, under the mask of an ill-disguised neutrality, has actually sided against the sufferers, and has given her aid towards delivering over the Christian descendants of Greeks to the whips and scourges of infidel Barbarians!—And that, too, when Englishmen of former days, before this nation had grown into the firmness and consistency of power,—whilst a people comparatively in the gristle, and under the dominion of a woman, stretched out a helping hand and saved the Hollanders in their agony of danger and of glory,—and, by so doing, braved and defied, when in the very zenith of their domination, the hereditary pride of Austria, and the supercilious loftiness of Castile! What! Is the doctrine of legitimacy come to this? Does the Holy Alliance open its capacious and accommodating arms to embrace the foe of Christendom—the Turk? Does prescription run in favour also of *his* domination? Are the quantity and duration of suffering to be made, in every possible case, the very reasons for its continuance,—when every man's heart feels, and his understanding confirms the feeling, that, the longer it has been protracted, the more aggravated and afflicting is the injustice?

Surely, surely, our political climate has been severely altered, or there is something peculiarly malignant in the distemperature of the present season. Is there a people, whose government is theoretically and practically vicious, where chance of amendment is desperate, and patience no longer a virtue,—and do they endeavour to better their condition, and profit by the spreading lights and information of mankind? The very first breath of a whisper of any such attempt makes the flesh of our rulers creep. A military force is called in, and quells the movement by the sword. Their sympathy is excited by the endearing spectacle of reason yielding to power. Tranquillity, they say, is restored. But we have no time for a commentary: our text is—Genoa, Parga, Spain, Portugal, Naples, South America, the Ionian Isles, Greece! Let nations be parcelled out and divided amongst the ruling powers as the *spolia opima* of victory,—let unoffending and harmless people be transferred from one master to another, as the live-stock of the land which they inhabit,—let precedents be created destructive of the balance of power, and of the independence of weak states amongst the strong,—let any aspect or 'shape' of things be 'taken,' but that of change in the form of government, 'and their firm nerves will never tremble.' But the very insinuation of such a change—though according to safe and glorious example—though from the very worst to that which all experience concurs with all reason in showing to be the best—fills them at once with animosity and terror.

If, however, it be said that all this has been not approved of, by ministers, but connived at,—not sanctioned, so much as endured, from a reasonable and prudent apprehension of committing the country to the hazardous experiment of war;—or, if, to speak more plainly, our monumental debt, the languor of over-exertion, and the weakness induced by convulsive efforts, unsparingly and lavishly made in the pursuit of objects, some of which, at least, were of an ambiguous and questionable policy, have rendered interference on the part of England impossible;—then have we just cause to lament, that no portion of our resources should have been husbanded for emergencies as they might arise,—and first, and chiefest, for the support and maintenance of a cause, entitled to the favour of the civilized world;—which has for its watchword, Liberty and Religion, names touching a chord that vibrates to the heart of every friend to the well-being of man in both stages of his existence;—a cause which, grafting the name of England upon the immortality of Greece, would hand down the exertions of our country, in her behalf, to the applause and admiration of all succeeding ages.

ART. VIII. *Case of the Salt Duties, with Proofs and Illustrations.* By SIR THOMAS BERNARD, Bart. London, 1817.

WE mean to be very practical in this article. It is not our intention to enter into any investigation as to the comparative effects of high and low duties on profits and wages, but to confine ourselves entirely to a demonstration of *the fact*, that an increase of taxation is not always followed by an increase of revenue, nor a diminution of taxation by a diminution of revenue. The prevalence of erroneous opinions on this subject has been in the highest degree injurious. In vain has it been shown, that high duties abridge the comforts and enjoyments of the people, and hold out a bounty to perjury, fraud, and smuggling. These truths are universally admitted; but then, we are told that the evil is irremediable—that the wants of the Government will not allow of any further *diminution of taxation*! The loud and unanimous call of the people for relief from their burdens, has induced Ministers to consent to relinquish *one shilling of the seven shillings and sixpence* with which every bushel of malt is really loaded; * but they have declared their inability to relinquish another farthing! And it is

* The duty on malt is 60s. 6d. a quarter—viz. 28s. of direct duty, and 10s. a barrel on each of the 3½ barrels of beer, which are extracted from every quarter of malt.

on this single ground—the alleged necessity of *keeping up the revenue* to its present amount—that they take their stand, in justifying the exorbitant taxes on salt, leather, tea, sugar, and other necessary articles. They have not had the boldness to attempt to deny that these taxes are extremely burdensome and oppressive; but they contend, that the maintenance of public credit is superior to every other consideration; and that, as the revenue is, even with all the aid derived from the high duties, barely adequate to meet the exigencies of the public service, and to keep up the *nomius umbra* of a sinking fund, they are reluctantly compelled to oppose every attempt to reduce them! Such is the reasoning of Ministers in Parliament, and such also is the reasoning of their adherents out of doors.

Now, this reasoning is plainly and avowedly bottomed on the assumption, that every reduction of taxation is necessarily followed by a corresponding reduction of revenue! ‘If you reduce,’ said the Chancellor of Exchequer, ‘the duties on salt from 15s. to 10s. a bushel, we shall have only 1,000,000*l.* of revenue from salt, instead of 1,500,000*l.*; but, in the existing circumstances of the country, and after the House has pledged itself to maintain a sinking fund of *five millions*, it is impossible for me to consent to such a diminution of the public income. It would certainly, added the Right Honourable Gentleman, *give much satisfaction* to his Majesty’s Ministers, if they could, consistently with the *real interests of the country*, agree to a *greater remission of taxes*; but after what Parliament has already done on this point (that is, after the deduction of 1s. from the duty of 7s. 6d. a bushel affecting malt), he certainly thought it *necessary to withstand any further reduction.*’* We shall not stop at present to point out the palpable absurdity, of supposing that any bad effects could possibly result from reducing a real sinking fund, of *five* to one of *four and a half* millions; it is sufficient to observe, that the same convenient plea of the necessity of maintaining this sacred treasure of *five millions* untouched, was the only reason assigned by Ministers for imposing *three millions* of new taxes in 1819, and that notwithstanding their imposition, both the *principal and interest* of the funded and unfunded *unredeemed* debt, have regularly increased since that period! But admitting the expediency of raising a surplus revenue of *five millions*, it might have been supposed, without giving Mr Vansittart and his colleagues credit for any unusual share of sagacity, that it would have occurred to them that it was possible the consumption of a taxed commodity might be increased by a fall of duty

* Debate on Mr Calcraft’s motion for a gradual repeal of the duties on salt, 26th February 1822.

or of price. It is certain, however, that they have either entirely overlooked this consideration, or that they are of opinion that it is quite the same thing to the great bulk of society whether prices are low or high! For, if the consumption of taxed commodities be increased by a reduction of duty, it is plain the revenue cannot be proportionably diminished; and it is even probable, it may sustain a positive and considerable increase. If, after a reduction of the duty on salt from 15s. to 10s., three bushels were consumed instead of two, there would be no diminution of revenue; and if two bushels were consumed instead of one, there would be a very great increase—so much so, that Government would actually gain 500,000*l.* by the reduction. Now, we contend, that this effect will always follow every diminution of high duties laid on commodities in *general request*. And we are prepared to show, that, far from causing any diminution of revenue, a considerable reduction of these duties would, by causing a much greater increase of consumption, be among the most effectual means that could be taken to increase it. The demand for such commodities as are, from the great expense of their production, necessarily high priced, must be always comparatively limited, and could not be greatly extended by any reduction of the duties with which they are charged. But a reduction of the duties laid on commodities in extensive demand, and whose natural cost is not very considerable, must be always followed by a very great increase of consumption. For, such a reduction not only enables those who were previously consumers to consume a greater quantity, but it brings them within the reach of new and more numerous classes of consumers. If any of our readers will take the trouble to look into the tables which have been published by Dr Colquhoun and others of the numbers and incomes of the different classes of the people, they will at once perceive that such a reduction of the duty or price of any commodity previously used by the higher classes only, as would fit it to be used by those in inferior stations, would extend the demand for it in a geometrical proportion. The truth of this observation may be strikingly exemplified by a reference to the case of cotton goods. At the accession of his late Majesty in 1760, the price of cottons, owing to the difficulty of producing them, was extremely high; and the value of the manufactured cottons annually brought to market, did not exceed 200,000*l.** But, thanks to the genius and inventions of Hargreaves, of Arkwright, and of Watt, the price of cottons has been so far sunk as to bring them within the reach of the poorest individual; and yet, such has been the

vast increase of demand, that notwithstanding this reduction of price, the value of the cottons annually manufactured in Great Britain, and either disposed of at home, or sent abroad, amounts, according to the very lowest estimate, to the amazing sum of FORTY MILLIONS! It is obvious, however, that if the same reduction of the price of cottons which has been brought about by the improvement of machinery, had been brought about by an equivalent reduction of taxation, precisely the same effects would have followed. The demand would have equally increased, and would have far more than compensated for the diminution of the duties.

But it is not necessary, in order to establish the superior productiveness of moderate taxation, to resort to arguments drawn from general principles, or from analogy. The history of taxation, both in this and other countries, furnishes numerous direct, conclusive, and well-authenticated proofs of the same principle. We shall notice a few of them. Previously to 1745, the excise duty of 4s. a pound on tea yielded, at an average, about 150,000*l.* a year; which, had there been no smuggling or adulteration, would have shown that the consumption was equal to about 750,000 lbs. But it was well known that smuggling was then carried to a very great height, and that the real consumption of tea was much greater than the apparent consumption. To put a stop to this clandestine importation, a bill was introduced into Parliament in 1745, in pursuance of the recommendation of a Committee of the House of Commons, and passed into a law, by which the excise duty of 4s. was reduced to 1s., and 25 per cent. *ad valorem*. This measure was signally successful. In 1746, the year immediately subsequent to the reduction, the sales of tea for home consumption amounted to above TWO MILLIONS of pounds weight, and the revenue was increased to 243,309*l.*! But to set the effects of this wise and salutary measure in a still clearer point of view, we shall subjoin an account of the nett produce of the Tea duties, from 1743 to 1748, both inclusive.

In 1743 it amounted to	L.	151,959
1744	—	147,065
1745	—	145,630
1746	—	243,309
1747	—	257,937
1748	—	303,545.*

But this unanswerable demonstration of the superior produc-

* Hamilton's Principles of Taxation, Appendix, No. 19; and Postlethwaite's History of the Revenue, p. 293.

tiveness of low duties, was unable to restrain the rapacity of the Treasury. In 1748, the duties were again increased, and fluctuated between that epoch and 1784, from 64 to 119 per cent. *ad valorem*. The effects which followed this inordinate extension of the duties, are equally instructive with those which followed their reduction. The revenue was not increased in any thing like a corresponding proportion; and as the use of tea had now become general, smuggling was carried to an infinitely greater extent than at any former period. In the *nine* years preceding 1780, above 118 millions of pounds weight of tea were exported from China to Europe, in ships belonging to the Continent, and about 50 millions of pounds in ships belonging to England. But from the best information attainable, it appears that the real consumption was almost exactly the reverse of the quantities imported; and that, while the consumption of the British dominions amounted to above 13 millions of pounds, the consumption of the Continent did not exceed $5\frac{1}{2}$ millions! If this statement be nearly correct, it follows, that an annual supply of about *eight* millions of pounds must have been clandestinely imported into this country, in defiance of the utmost vigilance on the part of the revenue officers. But this was not the worst effect of the high duties, for many of the retail merchants, who purchased tea at the East India Company's sales, being in a great measure beat out of the market, were, in order to put themselves in a condition to stand the competition of the smugglers, tempted to adulterate their teas, by mixing them with sloe and ash leaves.* At length, in 1784, ministers, after having in vain tried every other resource for the suppression of smuggling, resolved to follow the precedent of 1745, and reduced the duty on tea from 119 to $12\frac{1}{2}$ per cent. This measure was as successful as the former. Smuggling, and the practice of adulteration were immediately put an end to. The following official statement shows, that the *quantity* of tea sold by the East India Company, was about *tripled* in the course of the *two* years immediately following the reduction!

In 1781, the quantity of tea sold at the East India Company's sales, amounted to

1782	—	—	5,023,419 lbs.
83	—	—	6,283,664
84 (Duties reduced)	—	—	5,857,883
85	—	—	10,148,257
86	—	—	16,307,433
87	—	—	15,093,952
			16,692,426 †

* Macpherson's Commerce with India, p. 208. Millburn's Oriental Commerce, vol. 2, p. 540.

† Macpherson's Commerce with India, p. 116.

While the quantity of tea sold at the Company's sales, was thus rapidly augmenting, in consequence of the reduction of the duty, the quantity of tea imported into the Continent from China, which had, in the year 1784, amounted 19,027,300 lbs., declined with still greater rapidity, and in 1791, was reduced to only 2,291,500 lbs. ! *

The duties on tea, on an average of the five or six years preceding 1784, produced about 700,000*l.* a year. And, at the same time that Parliament reduced them to 12½ per cent., they laid an additional duty on windows, estimated to produce 600,000*l.* as a *commutation* tax, to compensate the deficiency which it was supposed would take place to that extent, in the revenue formerly derived from tea. But instead of the duties falling off in the proportion of 119 to 12½, or from 700,000*l.* to 73,000*l.*, owing to the increased consumption, they only fell off in the proportion of about *two to one*, or from 700,000*l.* to 340,000*l.* ! The Commutation act has been always regarded, and with justice, as one of the most successful financial measures adopted in the course of Mr Pitt's administration. The plan was generally understood, at the time, to have been suggested by Mr Richardson, Accountant-General of the East India Company. But the popularity of the measure was so great as to induce several other individuals to claim this honour, and even to occasion some hot disputes on the subject in the House of Commons. In point of fact, however, the merit of having first suggested the plan, did not really belong either to Mr Richardson, or to any of those who then claimed it; and such of our readers as will take the trouble to look into a pamphlet of Sir Matthew Decker's (*Serious Considerations on the present High Duties*), published in 1743, will find that the measure adopted in 1784, had been strenuously recommended forty years before.

But the principle of the Commutation act, and the striking advantage that had resulted from the reduction of the duty, were soon lost sight of. In 1795, the duty was increased to 25 per cent. : And after successive augmentations in 1797, 1798, 1800, and 1803, it was raised, in 1806, to 96 per cent. *ad valorem*, at which it continued till 1819, when it was raised to 100 per cent. Now, although it cannot be disputed that the duty on tea yields, at present, a vastly greater revenue than was derived from it in 1795, there are the strongest possible reasons for believing that the revenue would have been considerably greater, had the duty not been carried so high. The quantity of tea sold by the East India Company in 1795 and 1796, amounted to very nearly 20

* Macpherson's Commerce with India, p. 210.

millions of pounds a year, and in 1799, to very nearly 25 millions of pounds, (24,853,508.) Since then, there has been *no increase*! For, according to the account given in the Lord's Report on the East India Trade (p. 384.), the average quantity of tea sold at the Company's sales in 1818, 1819, and 1820, is rather under 25 millions of pounds a year. But the population of Great Britain, which is ascertained by the late census to amount to 14,379,000, amounted to only 10,817,000 in 1800; and had there been no diminution of the individual consumption of the Company's tea, in the interval between these enumerations, their sales ought plainly to have been increased in the proportion of 10,817 to 14,379, or from 25 to 33 millions of pounds. Nor is this all. The sales made by the East India Company supply the market of Ireland as well as Britain; and, if we take into account the extraordinary increase of population in that part of the empire, the diminution of consumption will appear still more striking. But, notwithstanding, the Company's sales have thus continued stationary since 1793, it is, we believe, pretty generally admitted, that the individual consumption of tea, or rather of the compound sold under its name, has not been considerably diminished in the towns, while it has increased greatly in the country since that epoch. It is plain, however, that this increased supply can have been obtained only by clandestine importation, or adulteration; and as there was no opportunity of smuggling during the latter part of the war, and as the powerful force that has been employed in the preventive service since the return of peace, must have rendered it extremely difficult to import any considerable quantity of foreign tea, we should be disposed to conclude, that the vacuum caused by the high duties, has been chiefly supplied by adulteration,—and such, we find, is really the case. There is, indeed, every reason to think that the practice of adulterating by the intermixture of ash and sloe leaves, and by drying tea that has been already infused, and mixing it with fresh tea, is carried to a greater extent at this moment, than in 1784. In proof of this, we may mention, that in London in 1818, upwards of twenty grocers were convicted of having spurious tea in their possession. And it is worthy of remark, that in the case of the *King v. Owen*, the counsel for the defendant (Mr Lawes) declared, that *the practice was so general, that his client was not aware of the existence of any law, by which it was forbidden*! Since then, several additional convictions have taken place; but it is not in the nature of things that the evil can be materially diminished by such means. If ministers be really desirous of putting a stop to the practice of adulterating, they must follow Mr Pitt's example, and take 50 or 60 per cent.

from the present duties. The experience of the effects of the reductions in 1745 and 1784, enable us confidently to pronounce, that such a reduction would not be followed by any corresponding diminution of revenue,—while, besides putting an instant stop to smuggling and adulteration, it would be a considerable boon to the lower classes, to whom tea is now become an article of prime necessity, and would powerfully contribute to extend our commerce with China.

We have been thus particular in noticing the variations in the tea duties, because the Company's sales afford the means of ascertaining the precise effect of their increase and diminution or consumption. The results are both curious and instructive; and would of themselves be sufficient to establish the truth of Dr Swift's observation that, in the arithmetic of the Customs, two and two do not always make *four*, but sometimes only *one*!

The shortsightedness of ministers, and the narrow and contracted policy on which they have almost always acted, put it out of our power to refer to many such conclusive instances as the reduction of the tea duties in 1745 and 1784, to prove the superior productiveness of diminished taxation; there are, however, one or two others which deserve to be pointed out. In 1742, the high prohibitory duties upon spirituous liquors, and upon licences for retailing the same, were abolished, and such moderate duties imposed, to commence after Lady Day 1743, as were expected to increase the revenue by increasing the legal consumption of spirits. This measure was vehemently opposed by the Bishops; but their opposition was ineffectual; and the increase of the duties, and diminution of smuggling which followed, proved that the measure was alike advantageous to the revenue and to the morals of the people.* In 1787, Mr Pitt reduced the duty on wine and spirits 50 per cent., and the revenue was, notwithstanding, considerably *augmented*. Perhaps, however, the progress of the duties on coffee illustrates this principle in a still more striking manner. In 1803, they were raised a *third*, and that year their produce *fell off* an eighth instead of increasing a third; in 1806, they had increased only a *sixteenth*, so that the consumption had diminished above a fourth. But it was at length found that the tax had been overdone, and it was lowered from 2s. to 7d. the cwt. Mark the immediate effects of this step. The average annual produce of the high duty for the three years previous to 1808, when it was lowered, was 166,000*l.*; and the average annual produce of the reduced duty for the next three years was 195,000*l.*!—a proof

* History of our Debts and Taxes, Part iv. p. 110.

that the consumption had been increased in a *quadruple* proportion.*

The history of other countries abounds with equally conclusive examples of the superior productiveness of moderate duties. In 1775, M. Turgot deducted a *half* from the customs and other duties chargeable on the fish sold in the Paris market; but, notwithstanding this reduction, the amount of the duties collected was not diminished. The demand for fish must, therefore, have been doubled, in consequence of the inhabitants being enabled to supply themselves, at a comparatively cheap rate, with a nutritious and agreeable food.†

Ustariz gives a variety of instructive details respecting the disastrous effects which the levying of certain taxes have had on the industry of the Spaniards, and of the advantage which has resulted from the repeal and modification of others. We shall give a single example. Valencia, he tells us, though very barren of grain and flocks, and not equal in extent to two-thirds of Arragon, paid *a much larger revenue to the Royal Treasury*. Ustariz says, that this was owing to the comparatively flourishing state of commerce and manufactures in Valencia; and he then adds—‘This increase and improvement in manufactures and commerce is ascribed to the equitable and kind treatment the weavers receive in that province, and to his Majesty’s goodness in *reducing the excessive taxes* which were charged upon *flesh meat and other provisions*; and his taking off wholly that which was laid on *bread* in ancient times; as also, the imposts known by the name of *ancient duties and generalities*. These duties were partly replaced by others, but in such a manner that they were rendered much lighter, the people in general eased, and the royal revenue improved.’‡

But the superior productiveness of low duties on articles in general request, may be equally shown from the consequences of the attempts to increase them beyond their proper limits. The history of the sugar duties is, in this respect, extremely important. In the three years from 1803 to 1806, the former duties were increased about 50 per cent. Now, the average

* Mr. Brougham’s Speech on the State of the Nation in 1817, p. 57.

† Say, *Traité D’Economie Politique*, tome ii. p. 339. Lord Kames, in his *Sketches of the History of Man*, states that these duties amounted to 48 per cent. *ad valorem*. Vol. ii. p. 406. Edit. 1788.

‡ *Theory and Practice of Commerce*, vol. ii. p. 310. Eng. Trans.

produce of the old duties, for the three years before that rise, was 2,778,000*l.* The produce of 1804, after they had been raised 20 per cent., was not 3,333,000*l.*, as it ought to have been, had the consumption remained the same, but only 2,537,000*l.*, being 241,000*l.* less than the produce of the low duty; and the average produce of 1806 and 1807, after the whole 50 per cent. was added, was only 3,133,000*l.*, instead of 4,167,000*l.*, which it should have been had there been no falling off since 1804. Thus, both consumption and revenue declined, in consequence of the increase of duty in 1804; and the consumption has declined in consequence of the succeeding augmentations, while the revenue has gained very little.* The duties on glass have been *doubled* since 1800, but the produce of the duty has not sensibly increased! The duties on leather, after being stationary for nearly a century, were *doubled* in 1813. In 1812, the low duties produced 394,000*l.*; but, instead of being doubled, or of producing 788,000*l.*, when the tax was doubled, the annual revenue has scarcely ever since exceeded *half a million*, and has frequently fallen short of that sum.

The duties on foreign wines have been *tripled* since 1792. The last increase took place in 1815, when 30*l.* per ton was added to the former duty on French, and 20*l.* to that on Portuguese wine. Now, observe what has been the effect of this increase of duty. In the Second Report of the Lords' Committee on the Silk and Wine Trade (ordered by the House of Commons to be printed, 28th June 1821), a series of accounts are given, showing the quantity of wine imported into Great Britain, and re-exported, for a considerable number of years past, and the amount of the duties. From these accounts, we have drawn up the following Table of the number of tons of wine imported into Britain from 1809 to 1820, both inclusive; the number of tons re-exported during the same period; and the quantity remaining for home consumption.

	Tons im- ported.	Do. re-ex- ported.	Remains for home con- sumption.	Average annual consump- tion during the five years previous to 1815.
1809. -	49,762	- 14,501	- 35,261	Tons. 28,489
10. -	47,058	- 12,729	- 34,329	
11. -	20,787	- 5,928	- 14,864	
12. -	35,082	- 6,716	- 28,366	
† 13. -	—	- —	- —	
14. -	31,465	- 11,833	- 29,627	

* Mr Brougham's Speech on the State of the Nation in 1817

p. 54.

† The Records for the year 1813 were destroyed by fire.

	Tons im- ported.	Do. re-ex- ported.	Remains for home con- sumption.	Average annual consump- tion during the five years subsequent to 1815.
1815. -	30,874	- 5,855	- 25,019	
16. -	18,218	- 5,163	- 13,055	Tons. 21,027
17. -	27,073	- 4,457	- 22,616	
18. -	35,763	- 4,021	- 31,742	
19. -	23,408	- 3,843	- 19,565	
20. -	22,782	- 4,625	- 18,157	

Average annual diminution of the con- sumption of wine for the five years sub- sequent to 1815, as compared with the five preceding years,	7,462
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Thus, it appears that the increase of the duties on wine in 1815 has occasioned a diminution in the consumption of 7,462 tons a year, or of ONE-FOURTH part of the total quantity annually consumed, on an average of the *five* years preceding the increase. Let us next see what augmentation of revenue has taken place to balance this diminution of the comforts of the people, and the loss of the market for the products which were previously exchanged for the wine.

From a Table in the same Report (p. 78), it appears that the produce of the duties of *excise* on the wines consumed in England from 1810 to 1820, both inclusive, has been as follows.

Average annual duty for the five years
previous to 1815.

1810. -	L.1,406,417	- L.1,162,382
11. -	1,215,507	
12. -	1,065,159	
13. -	1,061,604	
14. -	1,065,223	
15. -	1,277,481	Do. for the five years subsequent to 1815. - L.1,020,540
16. -	943,987	
17. -	928,473	
18. -	1,195,427	
19. -	1,085,500	
20. -	949,328	

The *average* drawback, as given in the same Table, for the five years previous to 1815, is 63,674*l.*; and for the five years subsequent to 1815, 43,761*l.*; and, deducting these sums from the above, we have 1,121,708*l.* for the amount of the average annual *excise* duty on wine for the five years preceding 1815; and 971,867*l.* for the average annual amount of that duty for the five years after it had been increased about 20 per cent.; showing that the revenue, instead of being augmented, has sustained a *diminution* of 126,841*l.* a year by this increase of duty!

The effect of the increase on the Custom duty has been equally striking. The accounts laid before Parliament do not go farther back than 1814; but in that year the *low* Custom duties amounted to 1,061,416*l.* In 1816, the *high* duties only amounted to 780,238*l.*; and except in 1818, when they amounted to 1,056,894*l.*, they have never since reached *one million*!

It is unnecessary to make any commentary on this decisive statement. The facts we have brought forward prove, beyond all question, that the revenue, the comforts of the people, and the commerce of the country, have all been *diminished* by this inordinate extension of the duties; and entitle us to conclude, that they would be all increased by their diminution.

But every part of our financial system affords equally conclusive proofs of the pernicious effects of over-taxation. We shall bestow a few words to illustrate its operation in the case of the salt duties. These duties were originally imposed as a *temporary* tax in the reign of William III.; but they were soon found to be too lucrative a source of revenue to be given up, and were made perpetual in the early part of the reign of George II. At the accession of his late Majesty, they amounted to 5*s.* a bushel, and continued at that rate until 1798, when they were raised to 10*s.* In 1801, a Committee of the House of Commons was appointed to inquire into the effects of these duties. The present Chancellor of the Exchequer, Mr Vansittart, was chairman of this Committee, and drew up their Report, in which the *total repeal* of the duties is strongly recommended, on the ground of their being '*highly detrimental to the public interests, in a degree far exceeding the payment of the tax itself.*' Instead, however, of paying any attention to the recommendation of the Committee, Mr Pitt added, in 1805, an additional half, or 5*s.* a bushel, to the previous duty of 10*s.*, making the whole duty 15*s.* a bushel.

We doubt whether, among all the countless multitude of taxes with which the people of Britain are oppressed, it is possible to name another so objectionable as this. Salt is one of the *prime necessities of life*; and, owing to the circumstance of its being indispensable to the curing of meat, butter, cheese, &c. it is consumed in considerably greater quantities by the poor than by the wealthy classes. And yet this necessary is loaded with a duty which amounts, at the very least, to *THIRTY* or *THIRTY-FIVE* times its natural price! Were it not for the duty of 15*s.*, salt might be purchased for *fourpence*, or, at most, *sixpence* a bushel. With the single exception of Poland, England has the richest salt mines in Europe; and yet the price of salt is higher there than in any other part of the world. The rapa-

city of the Treasury has rendered the bounty of Providence productive only of misery and crime. Notwithstanding the vigilance of the excise-officers, and notwithstanding the severity of the revenue laws, and their endless sequence of bonds, penalties, forfeitures, and so forth, there can be no doubt of the fact, that only about *one-third* of the salt consumed in England pays duty. The price of the whole is factitiously enhanced, but the contributions of the public are divided between the Crown and the smuggler; and while an army of excise-officers collects the high duty on about 50,000 tons, the smuggler receives a lower, though still a very high duty, on about 100,000 tons.* It is plain, therefore, that, exclusive of the sum (1,500,000*l.*) which the salt duties bring into the coffers of the Treasury, they cannot take less than an additional *million and a half* from the industrious classes, for the benefit of mere thieves and plunderers.

The present exorbitant duties on salt do not merely degrade the condition of the labourer, and stimulate him to embark in the predatory and lawless career of the smuggler—a career which almost always conducts to the gallows—but they are exceedingly injurious to some of the principal branches of the national industry. In spite of the immense sums that have been lavished on the fisheries in bounties, premiums, drawbacks, &c. &c. they never have attained to any considerable degree of prosperity; and it may safely be affirmed, that they never will attain to any, so long as the present salt laws are supported. There are so many expensive, teasing, and vexatious Customhouse regulations to go through, and so much risk, delay, and inconvenience, must be encountered in getting ‘fishery salt,’ or salt duty free, that many fishers rather prefer using salt for which they pay the ordinary duties. Mr Carter one of the principal fish-curers in London, concludes a very distinct account of the injurious effects resulting to the fisheries from the salt duties, by stating, ‘that if, under the present difficulties and discouragements, our fisheries have continued to exist at all, *their increase would be such as could hardly be estimated, if they were emancipated by the abolition of the salt duties.*’ And Mr Macdonald, the well-informed author of the Survey of the Hebrides, states, that ‘owing to the want of salt, many thousand barrels of the finest herrings in the world are lost every week during the fishing season. I have seen, he continues, *whole cargoes thrown into the sea in a putrid state, and others used as a manure for potatoe ground, in consequence of the inability of the fishermen to find surety or bail for the requisite supply of salt, conformably to the salt*

* Case of the Salt Duties, by Sir Thomas Bernard, p. 25.

‘law regulations.’ Such are the effects of that odious impost with which ministers, trusting to a majority of *four*, have determined to continue to oppress the country!

In France, previously to the Revolution, the average annual consumption of salt, in the provinces subjected to the *grande gabelle*, or high duty on salt, was estimated by M. Necker, who had the best means of coming to a correct conclusion, at 9½ lib. to each individual; and at 18 libs. in the *pays redimés*, or provinces that had purchased an exemption from the greater part of this hateful tax.* It is evident, from this well authenticated statement, that a very great reduction might have been made from the duty paid on the salt consumed in the heavily taxed provinces, without occasioning any diminution of revenue, while, besides directly increasing the comforts of the people, it would have relieved Government from the necessity of surrounding particular provinces with cordons of troops, and would have put an instant stop to that smuggling of salt, which occasioned the sending of between 3000 and 4000 persons every year either to prison or to the galleys.†

But our present salt laws, though not so partial, are really more oppressive than those of France. They subject *all England to a grande gabelle!* Only about 50,000 tons of salt pay duty; and this, distributed among twelve millions of people, the population of England and Wales, gives 9½ libs. for the consumption of each individual—almost the precise quantity consumed in the French provinces which paid the high duty! But the natural price, or the expense of producing salt, is considerably less in England than in France; and the English also use a much greater quantity of salted provisions than the French. Perhaps, therefore, we shall be within the mark, if we suppose, that were the duties repealed altogether, or reduced to 3s. or 4s. a bushel, the average consumption of England would not be less than from 26 to 24 libs. each individual; which, at the above rates, would yield very little less than the present revenue.

The feeling displayed by the House, when the question of the abolition of the salt duties was lately before them, and the support given to the motion by some of the staunchest adherents of ministers, lead us to believe that it will meet with better success when it is next brought forward. But if Mr Vansittart is determined not to part with a tax which he himself formerly denounced as being ‘*highly detrimental to the public interests*,’ when it was only two-thirds of its present amount, let

* Administration des Finances, tom. II. p. 12.

† Arthur Young’s Travels in France, vol. i. p. 598.

him reduce the duty to 3s. or 4s. a bushel, or to such a sum as will render smuggling unprofitable. If this is done, the revenue will not be diminished, and the tax will then conform to the maxim laid down by Dr Smith; and will not continue, as at present, to take *twice or thrice the sum from the pockets of the people that it puts into the coffers of the Treasury.*

But it is to Ireland that we must refer, if we wish to get a proper and emphatic view of the effect of oppressive taxation in reducing revenue. Since 1807, taxes have been imposed in that country, which our finance ministers estimated would produce THREE AND A HALF MILLIONS. How these anticipations have been realized, the following statements, on the accuracy of which our readers may place the fullest reliance, will show.

REVENUE of IRELAND, paid into the Exchequer, in British Currency, excluding the trifling articles of Quit-rents and Fees, in

	1807.	1817.	1818.	1819.	1820.	1821.
Customs, -	1,976,961	1,485,805	1,655,470	1,514,259	1,202,380	1,157,653
Excise, -	1,687,941	1,687,941	1,855,475	1,705,522	1,569,651	1,652,640
Assessed Taxes, } -	1,765,466	112,708	512,615	280,150	961,570	538,225
Stamps, -	564,121	520,266	509,058	482,469	407,405	400,897
Post-Office, -	71,590	57,250	46,153	53,538	59,077	67,558
Total -	4,378,241	4,191,950	4,566,750	4,035,711	3,998,081	3,816,989

Now the Taxes imposed on Ireland since 1807 were estimated to produce as follows—

Taxes imposed in 1808	-	£363,000
1809	-	600,000
1810	-	no budget.
1811	-	338,000
1812	-	229,000
1813	-	595,000
1814	-	521,000
1815	-	730,000

L.3,376,000

From this sum we have to deduct taxes estimated to produce 400,000*l.*, remitted at the close of the war. Had, therefore, the *data* on which our Finance Ministers built their conclusions been ordinarily well-founded, or, which is the same thing, had the country been able to support this additional burden, the revenue of Ireland, in 1817, 1818, 1819, 1820, and 1821, ought to have been about *three millions* greater than its revenue in 1807; but, the *official* statement we have laid before our read-

ers, shows, that, in point of fact, the additional taxes, instead of producing three millions, have not produced *a single shilling*! On the contrary, the revenue of Ireland amounted, in 1807, before their imposition, to 4,378,241*l.*; while, in 1821, it only amounted to 3,844,889*l.*; being a *decrease* of 533,352*l.*, instead of a rise of three millions!

We have here a signal and remarkable illustration of the folly of endeavouring to raise an additional revenue from an impoverished and exhausted country by mere dint of taxation. Had Ministers made any vigorous effort to stimulate the dormant energies of the people, to give them a taste for the comforts and luxuries of civilized life, or to remove the most obvious of those causes of irritation and idleness which have so long distracted and depressed one of the finest countries in the world, the result would have been very different. But, instead of reducing taxation, they contented themselves with adding to burdens which were already too heavy to be borne. The necessary consequences followed; consumption was diminished, the revenue declined, and all classes of the people have been sunk deeper in the abyss of poverty and misery.

We subjoin a few statements, showing the effects of the increased duties in diminishing the consumption of particular articles, and the revenue derived from them. They are copied from the books of the Irish Custom-house and Excise-office, and have been repeatedly referred to in the House of Commons. No doubt, therefore, can be entertained of their perfect accuracy; and they are certainly among the most curious and instructive documents that have ever been made public.

It is necessary to observe, that the duties on spirits imported into Ireland were paid in Irish currency until the year 1804, and since in British currency. In the annexed statements, the *rates of duty* are those laid on importations in British vessels; but the *amount of duty* is for the produce imported in vessels of all descriptions.

Years, or average of certain years.	No. of Gallons which paid duty.	RUM.		Amount, or a- verage Amount, of Duty received per annum.
		Rate of Duty per Gallon.		
		s.	d.	<i>l.</i>
1800—1801—1802	1,041,160	5	8½	297,744
				From
1804—5—6—7—8	300,293	7	5	July 1803, 100,529
1809 - - -	1,307,007	8	1	June 1803, 593,740
1813 - - -	544,984	10	1½	May 1813, 272,609
1816—17—18—19—20	28,321	10	0	July 1814, 16,507

Years, or average of certain years.	No. of Gallons which paid duty.	Rate of Duty per Gallon.	Amount, or a- verage Amount, of Duty received per annum.
BRANDY.			
	Gallons.	s. d.	L.
1800—1801—1802	208,064	7 3½ 77,714
			From
1809—10—11	22,671	9 11	June 1808, 13,233
1818—19—20	7,662	13 7	July 1814, 5,675
GENEVA.			
		s. d.	L.
1800—1801—2—3	82,828	7 3¾ 31,923
			From
1809—10—11	10,305	9 10	June 1808, 9,609
1817—18—19—20	3,723	13 7	July 1814, 2,857
PORTUGUESE WINE.			
	Tons.	Rate per Ton.	Amount of Duty.
		L. s.	L.
1800—1801—1802	5,705	38 14 221,236
In 1802 alone,	6,838	do. 268,401
			From
1804	4,949	58 0	July 1804, 230,143
1807—8—9	3,780	do. 219,240
1811—12—13	1,999	70 12	June 1810, 152,726
1817—1818—1819	1,209	90 16	July 1814, 117,952
FRENCH WINE.			
	Tons.	L. s.	L.
1801, 1802, 1803,	642	59 12 per ton	38,749
1805, 6, 7, 8, 9,	362	87 0 from July 1804,	35,372
1811, 12, 13,	262	105 18 from June 1810,	31,306
1816, 17, 18, 19, 20,	155	135 12 from July 1814,	22,718
1820 alone,	69	do.	10,190
MADEIRA WINE.			
	Tons.	L. s. d.	L.
1800, 1801, 1802,	95	38 14 0 per ton,	3,803
1807—8—9	144	59 1 2 from July 1804,	9,328
1811—12—13	105	71 13 2 from June 1810,	8,328
1816, 17, 18, 19, 20,	63	91 0 0 from July 1814,	6,100
SPANISH WINE.			
	Tons.	L. s.	L.
1800, 1801, 1802,	1,166	38 14	45,542
1803, —	1,392	40 16 from July 1802,	58,628
1804, —	1,903	48 0 from July 1804,	94,833
1807—8—9,	1,598	58 0 from Oct. 1805,	100,459
1811—12—13,	1,325	70 12 from June 1810,	102,845
1817—18—19,	724	90 6 from July 1814,	70,624

Years, or average
of certain years.

Amount, or a-
verage Amount,
of Duty received
per annum.

MUSCOVADO SUGAR.

	Cwt.	per cwt.			per cwt.		L.
		s.	d.		s.	d.	
1800, —	838,563	19	7½		32	1 2-3ds	284,260
1803, —	302,594	21	7	May 1801	34	1 2-3ds	596,275
1804, —	289,220	26	6	July 1801	49	3	579,507
1811—12—13	360,323	30	0		63	0	541,507
16, 17, 18, 19, 20,	266,413	ditto,			ditto,		404,035

TOBACCO.—(CUSTOMS.)

	Lbs.	Customs Duty per lb.	L.
1800, 1801, 1802,	6,484,857	about 7½d.	208,655
1807—8—9,	5,625,375	6d.	156,101
1811—12—13,	6,038,181	fr. 7d. 13-20th to 9d. 3-10ths,	206,982
1818—19—20,	3,411,464	1s.	183,252

TOBACCO.—(EXCISE.)

	Excise duty,	5d. per lb.	L.
1800,—1—2—3,			130,500
1808,—9—10,	ditto,	11d.	300,000
1816,—17—18,	ditto,	2s. 2d.	536,000
1820, 1821,	ditto,	3s.	493,000

HOME MADE SPIRITS.

1807,	Excise duty, 1s. per gallon produce,	L.1,236,000
Average of 1818,—19—20, ditto,	5s. 6d. per ditto,	1,170,000

MALT.

1807,—8—9—10—11,	Duty 10s. a bushel, average produce,	L.362,000
1819,—1820,	ditto, 14s. average ditto,	310,000

TEA.

1807,—8—9,	Duty, { 71, 11 per cent on higher teas, 84, 14 on low ditto,	average produce	L.527,603
1810,—11,—12,	ditto, 95 per cent. on all,		541,888
1816,—17—18,	ditto, 96 per cent.		486,918
1819,—1820,	ditto, 100 per cent.		451,300

We have here brought forward returns from the Custom-house books of Ireland, of nine separate articles, and from the Excise books of four separate articles, on which the duties, as they stood in the year 1807, have all been greatly increased since that period. The last augmentation of duties took place in 1818, after Bonaparte had been sent to St Helena, and when Legitimacy was everywhere triumphant! The results are so striking, and afford so admirable an illustration of Mr Vansittart's sagacity, and capacity for managing our financial concerns, that we shall bring them together in one point of view.

The quantity of rum annually imported into Ireland has fallen off			
from about . . .	1,000,000 gals.	to about 28,000 gals.	
Brandy, from about . . .	208,000	to 8,000	
Geneva, from about . . .	83,000	to less than 4,000	
Portuguese wines, from about . . .	5,700 tons	to 1,200 tons.	
French wines, from . . .	640	to 69	
Madeira, from . . .	95	to 63	
Spanish, from . . .	1,160	to 720	
Raw sugar has declined from . . .	338,000 cwt.	to 266,000 cwt.	
Tobacco, from . . .	6,484,000 lbs.	to 2,414,000 lbs.	

The decrease in the amount of the duties, has kept pace with the decrease in the quantities consumed.

The duty on rum has fallen from . . .	L.297,700	to L.16,500	
Brandy, from . . .	77,000	to 5,600	
Geneva, from . . .	31,000	to 2,800	
Wine—Portuguese, from . . .	268,000	to 118,000	
French, from . . .	38,000	to 20,000	
Madeira, from . . .	9,300	to 6,000	
Spanish, from . . .	100,000	to 70,000	
Sugar has risen from . . .	379,000	to 404,000	
Tobacco (Custom duty), has fallen from . . .	208,600	to 184,000	
Tobacco (Excise duty), has fallen from . . .	536,000	to 493,000	
Home made spirits, from . . .	1,236,000	to 1,170,000	
Malt from . . .	362,000	to 510,000	
Tea from . . .	527,000	to 451,000	

Or from a revenue of L.4,069,600 to L.3,250,900—being a loss of L.818,700 a year, by the *increase* of duties on the above mentioned articles!

It is surely impossible that Ministers can be permitted to continue this *fiat de se* system. Is it not absolutely monstrous to attempt to deprive a whole people, by means of exorbitant duties, of many of the most indispensable of the necessities, and of almost all the comforts of life, on the stale and stupid pretence of keeping up the revenue, when it is as clear as the sun at noon-day, that the revenue would be greatly increased by their reduction! It was justly observed by Mr Spring Rice, in one of the debates in the present session, that the Chancellor of the Exchequer was the most efficient ally of Captain Rock! Indeed, there can be no question, that the extraordinary privations which the late unparalleled increase of taxation has occasioned in Ireland, have been one of the main causes of the *bellum servile* now raging in that unfortunate country. And, for what has Mr Vansittart allied himself to Captain Rock? For what have the Irish people been deprived of so many comforts and necessities? Had the revenue been increased, it would have been some compensation, though a paltry and wretched one, for these priva-

tions. But the scourge of taxation has had no such effect—it has driven the people to despair, and urged them to commit the most unheard of atrocities; but it has not been able to squeeze a single additional shilling out of their empty pockets!

It is truly stated by the Reverend Mr Chichester, in his excellent phamplet on the Irish Distillery Laws, that ‘the calamities of civilized warfare are in general inferior to those produced by the prevalence of smuggling in Ireland.’ But the excess of taxation in this country seems to be in a fair way of producing the same disastrous effects that have resulted from it among our neighbours. It has already deprived the people of many comforts, and caused a considerable reduction of the revenue, and it has given a proportionable degree of encouragement to the smuggler. For the last twelve months, scarcely a week has elapsed in which a conflict has not taken place between parties of smugglers and the soldiers and sailors employed in the preventive service. Some of these conflicts have been very serious. It was stated in the Kentish papers of November last, that above 400 *country people*, assisting in the unloading of a smuggling lugger, were attacked by a party of military, who, after a brisk engagement, in which *one* of their party and *seven* of the smugglers are stated to have been killed, were obliged to retire to the barracks! Encounters of the same disgraceful description are occasionally taking place all along the coast; and the baneful practice of illicit distillation, the smuggling of salt, and the adulteration of tea, are now, as we have already shown, carried to an unprecedented extent. But, however much we may deplore the prevalence of this illegal and ruinous traffic, it is abundantly certain that Ministers will be disappointed in their attempts to put it down by the infliction of heavy punishments on those who are tempted to engage in it. High duties have made smuggling popular in other countries, and, if maintained, they will also make it popular in England. We have no desire to extenuate the guilt of those who endeavour to defraud the revenue, and to injure the fair trader; but it is idle to expect that the bulk of society will ever be brought to consider *that* those who furnish them with cheap tea, gin, brandy, &c. are guilty of any very heinous offence! Every one sees that it is those who dig the pitfall, and not those who have the misfortune to stumble into it, who are really responsible for all the mischief that may ensue. ‘There are,’ says Montesquieu, ‘instances where a tax is *seventeen* times the worth of the article taxed. (Our salt tax is not *seventeen*, but *THIRTY* times the worth of the salt). A tax so *excessive* must occasion frauds, which cannot be corrected by mere confiscations. Government is then driven to have recourse to extravagant pains and penal-

'ties, such as should only be inflicted on the greatest crimes. All proportion of punishment is done away; and men who can hardly be considered as culpable, are punished as atrocious criminals.'* To create, by means of high duties, an overwhelming temptation to indulge in crimes, and then to punish men for indulging in it, is a proceeding wholly and completely subversive of every principle of justice. It revolts the natural feelings of the people, and teaches them to feel an interest in the worst characters—for such smugglers generally are—to espouse their cause, and to avenge their wrongs. A punishment which is not proportioned to the offence, and which does not carry the sanction of society along with it, can never be productive of any good effect. The true way to put down smuggling, is to render it unprofitable—to diminish the temptation to engage in it; and this is to be done, not by surrounding the coasts with cordons of troops, by the multiplication of oaths and bonds, and making the country the theatre of ferocious and bloody contests in the field, or of perjury and chicanery in the courts of law, but simply and exclusively by *reducing the duties on the smuggled commodities*! It is this, and this only, that will put an end to smuggling. Whenever the profits of the fair trader become nearly equal to those of the smuggler, the latter will be forced to abandon his hazardous profession. But so long as the high duties are kept up—that is, so long as a *high bounty* is held out to encourage the adventurous, the needy, and the profligate to continue their career, an army of excise-officers, backed by all the severity of the Revenue laws, will be insufficient to hinder them.

ART. IX. *Dello Stato Fisico del Suolo de Roma. Memoria per servire d'illustrazione alla Carta Geognostica di questa città. Di G. BROCCHI. Con due tavole in rame. Con un Discorso sulla condizione dell' aria di Roma negli antichi tempi.* Roma, 1820. 8vo. pp. 281.

THE author before us is well known to our geological readers, as an ardent cultivator of a science much indebted to his exertions, and one who has greatly contributed to establish the reputation of Italy in that branch of natural history. On a former occasion, we took an opportunity of reviewing his work on the geology of a very interesting part of that country; of that, namely, which presents the singular phenomena of marine de-

* *Esprit des Loix*, liv. 13. cap. 8.

posites at high elevations, intermixed with others of terrestrial origin, and with volcanic substances. The present Essay, as far as the geological part of the work is concerned, contains little else than a repetition of the appearances described in his Subappennine Geology, applied to the illustration of the topography of Rome. It requires therefore no particular notice; as we have, in the article to which we have just referred, said every thing which the subject seemed to require. We purpose, at present, to offer a few remarks on his discourse respecting the condition of the air of Rome in ancient times; without, however, thinking it necessary to subscribe to all his opinions. The subject of Malaria, in general, is interesting, not merely to medical readers, but involves a question which concerns every one; not only those whom curiosity or idleness may lead to visit Italy, or whom commerce or military service drive to the poisonous regions of the globe, but those also who sit quietly at home, and hug themselves in a fancied security from its attacks.

Few of our general readers know that all the Fevers, properly so called, which mysterious Nature has provided for the partial depopulation of this globe, for checking, as it would appear, the too rapid increase of mankind, are divided into two classes; sometimes rather distinguishable by their causes than their effects. One of these appears to be produced by certain changes in the animal economy, which, while they derange the subject itself, compel it to generate a volatile and unknown substance, that may be communicated to other subjects; reproducing similar diseases *ad infinitum*. This unknown matter is *contagion*; and its produce are the various contagious fevers. The other class of fevers puts on a far greater diversity of aspect; but these are not contagious, inasmuch as they cannot be communicated from one individual to another. Numerically considered, the diseases of this class far exceed those of the former; and, considered as to their destructive effects, the ravages which they commit on health and life, surpass those of the contagious fevers in a very great degree. These are the diseases which form the peculiar scourge of hot climates; which interfere with the pursuits of commerce, and aggravate the ravages of war; often also defeating the best laid plans of politicians and leaders of armies.

As the invisible exciting cause of contagious fevers is a substance generated by the human body, so, that of the latter class is an equally invisible and diffusible substance, produced apparently from vegetating soils, under peculiar circumstances of heat and moisture. But as this matter is not intercommunicable from one person to another, so, neither can it be detained and preserved in dead matter, as is the substance that excites the fevers of the

first class. To suffer from it, it is absolutely necessary that the human body should be exposed to its influence where it is produced; nor does it appear, that, even in this its natural state, it can easily be wafted very far through the atmosphere. Whatever may be the nature of this obscure and invisible material, it is the essential ingredient of that which the Italians call *Malaria*; being the marsh miasma of medical writers.

Although the matter of contagion is a chemical compound, which may be preserved for a great length of time unchanged; and although it is known, from the effects of various chemical agents, that it is decomposed with great facility, no method of subjecting it to chemical analysis has yet been devised. It has been conceived, on the contrary, that the miasma, or poisonous matter of *Malaria*, might be examined; it has even been imagined that its nature had been detected; but we are decidedly of opinion, that no more progress has been made towards the solution of this problem, than of the other. We do not intend to enter at any length into the details of opinions and trials which have produced no results; but as physicians are always extremely ready to make hypotheses, and to catch at every current novelty of the day, so, in turn, azote, carbonic acid, hydrogen, carburetted hydrogen, and sulfuretted hydrogen, have been considered as forming the matter of miasma. It is true enough that some or all of these substances are produced by the same soils that generate these fevers; but it is equally certain, that the diseases abound in many places where these gases cannot be detected; and that, in many, where they are palpably generated in great quantity, such disorders are utterly unknown; while they are not excited by those gases when generated in our laboratories. As it had also been conceived that the miasma might consist of putrid animal and vegetable matters diffused in a moist atmosphere, Signor Brocchi here gives a detail of some experiments which he made with this view; by collecting the atmospheric water, or dew, and examining them by the usual chemical means. The result of these experiments, as of all others which had been made before, was nothing; and we still continue utterly ignorant of the nature of this pestilential substance.

The fevers generated by contagion, though they differ in severity, do not offer any very great discordances of character. If to mild and severe ones we add the contagious dysenteries, we include all the disorders produced by this peculiar substance, admitting the plague to be of a distinct nature. But it is a very curious and important fact, that the vegetable miasma produces a great diversity of ailments; some of them so little resembling others, that, were it not that we can trace

them to a common cause, we should scarcely suspect them of any affinity. We know not what our medical readers may think of such an opinion; but our conclusion is, that the identity of the cause is here sufficient to prove the identity of the resulting diseases, at least if radically considered; and this view is further confirmed by the very remarkable fact, that all the diseases nearly that are produced by miasma, are cured by the same remedies; excepting always such diversities of treatment as may be demanded by accidental or peculiar symptoms, arising from collateral circumstances, or from the particular organs that are affected. Thus, it is easily understood, that, in addition to the common remedy by which the great constitutional effect of the poison is to be counteracted, it may often be necessary to have recourse to local and particular remedies.

The principal and most destructive disease produced by miasma, is the remittent fever of hot climates; a fever so varying in its characters as sometimes to be continuous, at others intermittent; in which latter case, it passes into the popular division of Ague. Of this nature are the well known jungle fevers of India, the pestilential disease of Batavia, the fevers of the hot and moist African shore, the indigenous yellow fever of the West Indies, and many others, known under different names to physicians, which we need not enumerate. Of similar character, but far less severe, in ordinary seasons at least, are the fevers of the Delta of the Crimea, of Holland, of Greece, and the disease of Italy, the malaria fever of our author. When most virulent, these have the character of remittents; when less so, they are intermittents; presenting all the various types of that variety—quarian, tertian, and quotidian. In colder climates, or in situations where the miasma is generated, either in less abundance or in a state less concentrated, possibly also from a different state of the patients affected by it, the milder agues take the place of the severe intermittents, as happens in our own country. In these cases the disease is rarely fatal, at least immediately, however it may lay the foundations of incurable chronic disorders. It further appears, that the same miasma may, under peculiar circumstances, produce dysentery; and of this character are the prevailing disorders of this nature so fatal in campaigns, and so common in the warmer climates of the globe; although there is also a dysentery of a contagious nature, arising from the same poison, that produces the fevers of that class. To dysentery we may add cholera; as being also, under certain circumstances, the produce of the exhalations of marshy ground.

There is an affinity between all these disorders, of such a nature that it is by no means surprising to find them all depend-

ing essentially on one cause. But miasma, or that substance which produces the intermittent fever, has also the power of exciting other disorders of apparently widely different characters, often unattended with any appearance of fever. The disorders to which we here allude, put on as many appearances as they affect parts; nor dare we here enter on all the medical explanations which would be requisite to render their varieties intelligible to our readers. Where peculiar organs are affected, as for example the eye, it is natural to expect that the general morbid action must be modified in a correspondent manner; and hence it is that physicians, in attending to the local peculiarities, have almost invariably overlooked the general cause of derangement. When no organs of a peculiar structure are affected, the only leading symptom is pain; and that, very commonly, confined to a narrow spot. Yet it will always be found, that even where these pains are most limited and most trifling, there is a general derangement of the body present, which is however very commonly overlooked; as, in other cases, the pain itself is passed over as of no moment, while the physician is in vain attempting to find a cause for, or to discover the nature of, the constitutional malady. These pains are well known to our general readers when they go by the name of sciatica, toothach, rheumatism, periodical headach; &c.; and, like ordinary intermittents, they are the produce of miasma. or malaria, however generated. That this is the fact, is proved by their being produced by that substance, or in the situations where it is present; by their alternating with, or passing into, the common ague; and by their yielding to the same remedies. On this very extensive and important branch of medical science, however, neither our limits nor the plan of this article will permit us to enlarge.

We have now lastly to remark, that the miasma has the power of producing certain organic derangements of the liver, spleen, and other internal organs. In many cases, these are indeed the consequences of previous fever: but, in others, it is unquestionable that these glandular diseases occur without fever, for which they appear to be substitutes; being directly produced by the operation of the miasma. Hence the liver complaint of the East Indies, and the diseases of our own fens, which are indicated by the deranged health and sallow complexions of the inhabitants, even where they have altogether escaped the intermittent fever. In Italy, the malaria produces the very same effects in many places; when the unfortunate inhabitants, in vain flattering themselves that they have escaped the fever, fall victims to dropsy and other disorders arising from organic derangement. Among the more obscure

modifications of intermittent, we must also mention apoplexy and palsy; effects by no means confined to the Italian malaria, yet well known in that country, where such affections are known by the name of *febbri larvate*.

While it is ascertained that marshy ground is the common cause of miasma or malaria, it is generally believed, that either a considerable extent of such land, or a very decided marshy condition, is necessary to produce the disease. This, however, is a pernicious error, which it is important to correct. So far is it from being true, in this country at least, that marshes necessarily produce the intermittent, that there are innumerable tracts of that nature where it is unknown. So far also is it from being true that the marshy condition is requisite, that it is often produced by clear and clean waters, by mill-ponds, for example, and by the fish-ponds and dressed canals of pleasure grounds. We even remember an instance on a high gravelly heath near London, where a perpetual ague infected a house for many years, without a suspicion of the cause; till it ceased on filling up a clean pond of a few yards square, whence gravel had been formerly taken. Of cases where it is the perpetual companion of mill-ponds and fish-ponds, we might enumerate many. To recur to a very noted spot, however, it is not suspected that St James's Park is a perpetual source of malaria, producing frequent intermittents, autumnal dysenteries, and various derangements of health, in all the inhabitants who are subject to its influence. The cause being unsuspected, the evil is endured, and no further inquiries made.

In such cases as these, if regular agues were the produce, a suspicion regarding the cause would naturally arise; but the irregularity of the affections, the variety of effects, and the general ignorance which we have already noticed respecting the anomalous effects of malaria, continue to prolong the public blindness on this subject. Yet it is easy to subject all these places to an accurate test: not a chemical one, it is true, but one of a far more delicate nature. It is known that the disease, as generated by certain varieties of miasma, from that of Walcheren for example, and sometimes from that of Canton, is either incurable, or is at least apt to recur on the slightest exposure to fresh miasma. A being so unfortunately susceptible becomes thus a test of the production of miasma, where it would not otherwise be suspected; the poison producing in him those consequences to which his former disease determines it; while, in the inhabitants themselves, it may be only perpetuating a general unintelligible state of bad health, or some of the obscure affections of which we have already mentioned a few.

There is yet another circumstance relating to miasma,

which it is no less curious to remark, than proper to be generally known; and this also is not easily discovered, except by making use of the same tests. It is commonly held, that it cannot travel far from the place of its production; a fallacy often leading to very pernicious consequences. But the east wind has the power of transporting it to considerable distances; and we have little doubt ourselves, that whenever it occurs in this city, (where it now is rare), the poison is transported from Holland. The east wind which blows from Essex towards London, invariably carries it on, even for many miles, as all susceptible persons experience; and that this is not a mechanical consequence of the motion of the air, is certain: since the western winds do not transport it in the opposite direction. Nor will the east wind produce it, except in cases where it blows over countries subject to the malaria; a proof that the poison is present, and that the effect is not a property of the wind itself.

It is lastly held, that it will not originate or spread in large towns; another dangerous opinion, leading to gross neglect in the treatment of diseases, and in the use of proper precautions against its effects. We have said, that it is generated abundantly in St James's Park, and thence it spreads even to Bridge-street and Whitehall. Nay, in making use of the most delicate miasmometer (if we may coin such a word) that we ever possessed, an officer who had suffered at Walcheren, we have found it reaching up St James's-street even to Bruton-street, although the rise of ground is here considerable, and the whole space from the nearest water is crowded with houses. After this, we need scarcely remark, that, at the east end of London, it reaches all through Finsbury division and Whitechapel, and is even brought up at the back of the Strand along the course of the river. We shall hereafter see that it is in the same manner spreading, and that very rapidly, through the city of Rome, the proper object of this work, to which we shall now turn our attention.

It is well known to every reader of Italian travels, that the malaria is very common and destructive in Rome in the summer months. In general, it is held to begin with the great heats about the end of June, on St Peter's day, as it is thought; and it does not terminate till after the severe equinoctial or autumnal rains in September. July, in ancient times, was, as we know from Horace, notorious. 'Adducit febres et testamenta resignat;' and the same passage prays that he may be preserved 'incolumem Septembribus horis.' It is Signor Brocchi's object to show, that the causes of malaria were greater in

ancient times than in the present, but that the consequent pestilence and destruction were far less; and, on the cause of this unexpected difference, he has a theory of his own. We doubt whether he has established either his facts or his theory.

Before the foundation of Rome, it is evident, from geological considerations, that its site, as well as the surrounding country, must have been full of marshes, lakes, and woods. That such a state of things should have produced intermittent fevers, is unquestionable; and yet, in spite of it, the city increased, and the country became the seat of flourishing hamlets and villages. At that early period, in which the town was limited to the Quirinal and Palatine Hills, and to that of the Capitol, there existed two marshes at the very foot of these latter, namely, the Great and Little Velabrum; besides which, there were the Caprean Marsh, and those of Terentum; the whole necessarily forming a perpetual focus of pestilence. In the vicinity of the city, the plain of Latium, once populous and flourishing, is now a desert. The lake of Castiglione, most infamous for its pestilential air, was, in the time of Tarquinius Superbus, the seat of a powerful city that long resisted his arms. The ancient Laticum stood near one of these marshes; which is at present among the most destructive; and the Romans built baths beyond the Anio, in a place where no one will now venture to travel. The Lago di Giuturna, once a favourite spot of the ancients, was drained in 1611 by Paul V., on account of the exhalations which rendered Castel Gandolfo uninhabitable. But not to accumulate examples, we may remark, that innumerable marshy pools existed all about the ancient Roman territory, then dignified with the title of lakes; and yet that these districts were then flourishing; whereas now, that they have been filled or drained, the same spots are uninhabited deserts.

If, therefore, populous towns and villages existed in the very middle of these marshy spots—if a country so constituted was highly peopled—and if, even in the midst of Rome itself, there were extensive marshes; either there is some mystery which we cannot solve, or the Romans had the art of avoiding, in a far greater degree at least than their posterity, the effects of this pestilential air. Respecting the rapid increase of the early population of Rome, there can be no doubt. The first census, made by Servius Tullius, gave 80,000 citizens, capable, it is supposed, of bearing arms. Ardea, the city of the Rutuli, was able to raise an army sufficient to resist Rome, and, at the same time, to send a colony to Saguntum. Ostia, built by Ancus Martius, became in a short time a flourishing city. The former now reckons six hundred inhabitants; and all the popu-

lation of Ostia is comprised in an innkeeper, who supplies the neighbouring herdsmen with food. And similar is the state of all the surrounding districts.

It might perhaps be supposed, that the lakes and marshes of those days were not of a pestilential quality. But history contradicts this supposition; since Columella informs us that the land cultivated by Attilius Regulus, in the first Punic war, which lies near Tusculum, was pestilential, the miasma probably arising from the present Lago di Castiglione. It would, indeed, be absurd to suppose that the ancient Romans were absolutely exempt from the effects of the malaria, even at the earliest periods, however difficult it may be to account for the rapid increase of their population, and the flourishing state of the surrounding country. We shall inquire hereafter whether there is not some element requisite to the solution of this problem, which our author, inquisitive only about physical causes, has overlooked.

We are certain, from Dionysius of Halicarnæsus and Solinus, that the first settlers were obliged to abandon the Palatine Mount, in consequence of the pernicious air of the Velabrum. Other historians record numerous periods of pestilence. Such, according to Plutarch, occurred in the time of Romulus, and in that of Numa; and two noted events of the same nature are related to have taken place, in the reigns of Servius Tullus and Tarquinius Superbus. Further, according to Livy, in the short period of 173 years, that is, from 287, U.C. to 460, there occurred at Rome, or in the surrounding country, no less than 19 distinct plagues; none of them at longer intervals than 17 years, and some of them lasting for two or three years together. Now, we admit it to be possible, or indeed more than probable, that all these were not periods of marsh fever; but that some of them at least might have been contagious fevers, originating in the country, or imported. The want of medical information renders it difficult to decide this question; yet we see no reason to agree with De Maltheis, that all these were periods of remitting or intermitting fevers, as he is evidently anxious to support a particular system. As far as we can draw any conclusion from Livy's narrative, we are inclined to believe that the fever of 573, a later date than those above quoted, which ravaged all Italy, was a contagious disease. The extreme severity of the fever of 355, appears to justify a similar conclusion; as do those cases, much more decidedly, in which the mortality was limited to the city, while the surrounding country escaped. But admitting all this, and much more, there can be no reason whatever for doubting that Rome, from the most ancient times, was subject to the diseases produced by the malaria.

Many of the writers of the time of the Republic mention the insalubrity of the climate, and the autumnal fevers. Cato, in his Treatise *De Re Rustica*, speaks of places where it was impossible to live, on account of the badness of the air; at the same time that he gives a receipt for the fever, worthy to be compared with the celebrated balsam of Fierabras. Livy speaks of quartans and tertians. The testimony of Varro on this head could not well be stronger, as he advises the proprietor of an unhealthy farm to sell it at any rate, or else abandon it; or otherwise, he ought to be confined as a madman.

We need not accumulate more proofs of the existence of the malaria fever in the earlier times of Rome; yet it may still be urged that it was not then so destructive as it became at a later period, and as it is in our day. We do not however hold, that the antipathy of the ancient Romans to physicians offers any proof of their greater exemptions from these diseases. Pliny informs us that the first professor of the healing art came from Greece in 535; and even he was only a surgeon. Cato held the whole tribe in detestation; but he, we all know, was a desperate economist, and probably hated them for the same reason that he did his bailiff's wife; while he doubtless thought that his own abominable bouillons were cheaper than the apothecaries drugs. We leave it to our readers, however, to determine, whether the neglect of the heroes of the pestle in those days, should be considered as a proof of the conceit and ignorance of these semibarbarians, or only of their good sense.

But our author, who has a hypothesis of his own to support, while he is compelled to admit that even the frugal and severe republicans were not exempt from the effects of the malaria, thinks he has discovered the period when these diseases first became formidable; and here he brings in his theory respecting the modes of prevention, of which the possessors were themselves unaware. This sad period, it seems, was that at which the citizens, becoming rich and luxurious, abandoned their ancient simplicity of manners, and austere habits of life. But the great source, we are assured, of the mischief, was their abandonment of the use of woollen clothing, and the introduction of silk and linen. The proofs of this opinion are derived, partly from some *a priori* reasoning of a physical and medical nature, and partly from historical facts, real or imaginary. There may possibly be more truth in it than we are aware of; but we think the reasoning unsatisfactory, and the facts doubtful.

He considers it as unquestionable, in the first place, that the miasma of the malaria is introduced through the pores of the

skin, and not through the lungs. He attempts to support this opinion by the admitted fact, that the diseases which it produces are most readily excited during sleep. Sleeping and waking, the lungs exercise alike their functions; while he asserts, on the authority of Richerand, that the absorbents of the skin are most active in the state of sleep. Hence the miasma must be admitted through the skin, and not through the lungs. The authority of Richerand, and the value of this reasoning, deserve pretty nearly the same respect. Not to notice that peculiar debility occurring during sleep, which, like other analogous states, is favourable to the reception of contagion and miasma both, it must be recollected that night, the period of sleep in general, is, from the peculiar state of the air, favourable to the activity of miasmata. It is questionable if any of the diseases of these classes are excited except through the lungs; and, with regard to the intermittent, the fact appears to us established by an occurrence far from uncommon in Italy, and which is probably not limited to that country, although it has not hitherto excited the notice which it merits.

It is known, that, in many places, the miasma, in calm weather, and under certain other circumstances perhaps not understood, is retained very near to the surface of the earth. It is even ascertained, that it is sometimes collected in such cases by plants, particularly those of a dense and entangled foliage; so as to be disengaged on cutting them down, or rooting them up; thus exciting fever in the labourers, who might otherwise have escaped. Now, in all these situations, while the workmen are in the erect posture, and engaged in their work, they escape the fevers, but are attacked if they sit, and, more particularly, if they lie down on the ground, and that whether they sleep or not. Were the miasma admitted through the skin, such a difference could not happen; and this fact appears to us in itself sufficient to prove, that the poison acts through the intervention of the lungs. As in the familiar instance of accumulated carbonic acid, in the Grotto del Cane, or in brewhouses, the person is safe while his respiratory organs are not so placed as to receive a substance, which, either from its own weight, or that of the air with which it is mixed, occupies a low position. We need scarcely point out the value of this fact to those who reside or travel in countries subject to malaria.

- Another fact equally demonstrative of this opinion has lately occurred to us, although we dare not yet consider it as fully established. We have caused some further experiments respecting it to be instituted, and, should it finally be proved true, it will form one of the most valuable discoveries which

modern times have added to our knowledge of prophylactic remedies. We gladly take this opportunity of disseminating this piece of knowledge, should it really prove such, as we earnestly hope it will, that those who have it in their power may repeat the experiment, since it is simple, and within the reach of every one. It was lately observed, casually, that some persons who had slept in one of these pestilential spots in Italy under a *conopetum* or mosquito net, for the purpose of keeping off these troublesome animals, escaped the effects of the miasma, while others, unprovided with this expedient, took the disease. If, as we have here supposed, the poisonous matter is received through the lungs, it is not difficult to account for the action of this very simple preventive. It is well known, that the nature of these poisons is such that they are very easily decomposed, and that by feeble chemical agents. Now, it is probable that the heated and compound gas which proceeds from the lungs, and which forms an atmosphere within the gauze veil, may be sufficient to decompose the miasma in its passage to the mouth; although it may also be true, that the mechanical texture of the covering is itself an impediment to the transmission of that substance. It will be worth the attention of physicians, to try whether the same easy expedient may not also be effectual in preventing the communication of common febrile contagion.

To return to our author. In the nature and quantity of the clothing worn by the ancient Romans, he thinks that he finds the antidote by which they, in a great measure at least, prevented the effects of that from which their posterity is now deeply suffering. This he imagines it effected by guarding the skin against the action of the poisonous atmosphere, and by maintaining a regular state of perspiration. His medical theory of the mode of action of this substance on the body, is about as good as other medical theories,—although he is only a geologist. It is at least fully as unintelligible; and contains the usual terms and phrases, disposed in the usual manner. A certain quantity of debility, added to a certain proportion of irritability, with a due derangement of the cutaneous vessels, and the proper allowance of spasm, causes the absorbent vessels to act; and so the matter is settled. Now, all this also, the progress of the disease as well as its original reception, is prevented by the roughness of the wool, which stimulates the skin, and so forth.

To confirm this hypothesis, he has recourse to a phenomenon which he tells us—‘*ha sempre destata la maraviglia dei fisici.*’ This is, that no animals, either tame or wild, suffer

from the effects of the malaria; and that travellers are 'grandemente sorpresi' to find them living and thriving in the most poisonous situations. The key, however, to the puzzle, is to be found in the wool and hair with which Nature, more kind to them than to us, has provided them. Here we think Signor Brocchi had better have stuck to his lavas and his travertinos; unless he will also inform us why cows are not subject to the gout, nor geese to hysterics—why herrings are exempt from the small-pox, and oysters from the toothach. Besides the virtues of the wool itself, our author also thinks that this 'gens hirtoid' of the primitive ages of Rome, found an additional counter poison in their own dirt, which, stopping up the pores of the skin, prevented the malaria from finding its way in. If, as Signor Brocchi thinks, they really knew not how to wash this eternal blanket, to which the name of Toga gives in our ears such an imposing sound; and if, as Varro says, it was the universal dress of both men and women, by day and night alike, we are not sure that we would not, for ourselves at least, prefer a clean shirt and an ague.

The use of silk and linen, we well know, began to be remarked towards the decline of the Republic, as we may see in Cicero's declamations against Catiline. At the same time, the toga gave way to a much lighter garment. In the reign of Tiberius, silk was still more frequently used; and the ladies, of course always foremost in new fashions, were remarked for concealing their beauties with gauze, as we suppose a modern milliner would call it, so thin as to be called *ventus textilis*. We might easily answer to all this, that the use of such clothing was a luxury, limited, not only to Rome itself, but to the upper classes. To which Signor Brocchi is ready to reply, as all Shandean do in similar cases, that the malaria fever of the times of the luxurious empire, affected principally the inhabitants of the city, and, among them, chiefly the opulent and degenerate. Horace, who seems to have had a sufficient abhorrence both of Rome and its fevers, thinks the wearing of the 'pænula, solstitio,' absurd enough; but our geologist, on the contrary, indignant at Martial for praising the '*tunicata quies*,' is only surprised how they should have lived at all, when they were accustomed, at their country seats, to strip themselves to their doublet and hose.

It being of the very essence of an hypothesis to assimilate and be nourished by all kinds of food, our author finds, in the annual migrations of the opulent to their country-seats during summer—to Tusculum, and Baiæ, and Tibur, and Benacus—proofs additional that they were the chief sufferers from the in-

intermittent fevers. As well might posterity argue, a thousand years hence, that an annual summer pestilence drove their Dandy progenitors to Brighton and Ramsgate, or to the joys of partridge-shooting and the moors, because their scanty coats were of Mr Stultz's cut, and their trimmings and slips from Madame Triand's shop. It was natural that those who could avoid the fevers of summer should leave the city, the '*fremum strepitumque Romæ*,' of which Horace expresses his detestation, even had they not possessed additional inducements, in the luxuries of their villas, the beauties of the more distant parts of Italy, or that love of a country life which the Romans seem for a long period to have preserved. Those who could not go from home, were of course compelled to remain; and if some thousands of the slaves, artisans, or poorer citizens of Rome, died in the months of August and September, a circumstance so universal and habitual would scarcely excite the remarks of historians; particularly in a population eternally crowded, and perpetually replaced by the influx of inhabitants from all parts.

While the population of the city was as great as it could contain during the times of the Empire, even to a late date, we are also aware, that even that of the Campagna was considerable in the reigns of the Cæsars, since the thirty-one country tribes were dispersed in this district. All this our author considers a proof, not that the country was free from malaria, but that the dress of the inhabitants counteracted its bad effects. As the luxuries and habits of the upper ranks spread to the lower, and then gradually from the city to the country, he imagines the depopulation of the latter commenced, and the complaints of the writers respecting the insalubrity of the former increased. To us, on the contrary, little more appears to be proved by the observations of Horace, Columella, Varro, Strabo, Martial, Seneca, and Galen, than that writers were then more numerous; that the people were more enlightened; and that subjects connected with economy and health, were objects of greater attention to a luxurious people, enjoying leisure, wealth and knowledge, than to their barbarous predecessors, eternally occupied in war, and little concerned about any thing but the recruiting of their armies and the annoyance of all independent states which they could any where reach.

Our opinion respecting the value of the author's historical conclusions is now easily collected; since, even on this point, he has by no means made out a case. We shall soon show, that we do not mean to assert that the salubrity of this part of Italy has not varied; but Signor Brocchi would do well to consider,

whether there were not circumstances in the political condition of ancient Rome which rendered the effects of the malaria less objects of attention, even independently of the causes which we have just stated. These were of a nature to preserve a crowded population in the town, and a busy and numerous one in the country, in spite of a certain portion of disease. Were Egypt what it once was, in government, commerce, arts, and industry, all the plagues to which it is subject would make no sensible impression on the population. It is not from fevers and dysenteries that Northern Africa is cursed, and Carthage a desert, or that Palestine is reduced to one-sixth and less of its former population. Misrule, and its accumulating consequences, will account for these, and far greater revolutions. Austria is the true malaria of Venice—and Turkey is that of Greece.

As little do we think that the medical part of our author's views is well founded. We have already given reasons for doubting that the miasma is received through the skin,—though we are far from meaning to deny that, to a certain degree, warm and woollen clothing, non-conducting coverings, in short, of any kind, are fitted to resist the impressions of many diseases; perhaps, in a degree, even of this one, by its effect on the predisposing causes. We dare not, however, expatiate on these medical details; but we would desire our author to recollect, that the ancient Egyptians, and many of their neighbours, wore linen; that, from time out of mind, the Hindoos and Chinese are clothed in cotton, and the Negroes often in nothing at all; without being from that cause particular sufferers from the peculiar and virulent malarias of their own regions. A greasy Russian boor claims no particular exemption from the agues of the Don and the Crimea.

Signor Brocchi is very severe on those satirical travellers, as he considers them, who occupy themselves in childish declamations on the decay of agriculture, the indolence of the inhabitants, and the defects of the Roman government, and find in these a solution of the difficulties in question. He says, and truly enough, as far as this particular tract goes, that these opinions are refuted by the excellent cultivation of the Alban and Tusculan Hills, which are surrounded by an abandoned and pestiferous plain. Long ago, indeed as long since as the 15th century, laws were enacted to promote agriculture, with the hopes of preventing the increase of the malaria. By a law of Sixtus V. in 1480, it was forbidden to all proprietors, whether lay or ecclesiastic, to prevent their tenants from following a system of agriculture, it having been the practice with many of these to throw their lands into pasture. This law was confirm-

ed by the Popes Julius the II., Clement the VII., and Pius V.: and, at a later period, it was recommended to extirpate all brush and underwoods as a means of meliorating the air.

The whole of this question, as far as relates to the present and former state of the Campagna,—to the influence of agriculture on its salubrity,—and to the effects which have been at different times produced by the neglect of agriculture, by regulations respecting it, or by attempts at cultivation and drainage, is, we are well aware, one of great difficulty. Those who have paid the greatest attention to it are by no means agreed; while, whatever the causes may have been, it seems a prevalent opinion, that the country round Rome is, in reality, less salubrious than in ancient times, although, being assuredly drier than in the earliest periods of the city, it is held that it ought to be more healthy. To say no more of Brocchi's peculiar theory respecting dress, we doubt if his reasoning, with respect to the condition of the soil, is correct; and are rather inclined to consider that the land is more productive of miasma, principally because it is less incumbered with lakes, and apparently drier.

We have already attempted to show, that the circumstances under which miasma is produced from certain soils, are very little understood. It appears at times to arise from clear waters, where it would not be suspected; and even from ordinary grass meadows, where nothing like putrefaction exists. In a thousand instances, neither marshes nor wet woods produce it: in some cases, it is the produce of peat bogs; in others, not. In many places, it is peculiar to salt marshes: in others again, the occasional influx of the sea is a preventive. It sometimes falls with rains and dews, as in Africa; in others, it rises from the ground. The driest east winds waft it from distant regions; the hot steam of the slave coast carries it far out to sea. If in Holland and Batavia, it is the produce of canals; in many parts of Italy, it is generated in dry land. Under such difficulties, if we can prove nothing positive respecting its generation and progress, neither can we form a negative decision. We think it, therefore, very possible, that notwithstanding the differences between the condition of the former and present Roman district, it may actually have been less productive of malaria in ancient times. The pools, or lakes, or marshes, of the Rutuli and Volsci, of the thirty-one rustic classes, and of the Velabra, might easily, for aught we can prove to the contrary by any reasoning or experience, have been more salubrious than the same land in its present state; when, these cavities having been filled up by the gradual increase of their subaqueous soil, or partially drained by artificial means, it retains beneath the surface that water which was once

exposed to view. Nor shall we be surprised if this should in reality be the true solution of all these difficulties. But we must think of drawing this article to a conclusion.

To what other causes but this we are to attribute the rapid progress which the malaria is now annually making through the city, we can scarcely conjecture; unless it may partly be accounted for by the very fact itself, by the depopulation and desertion of certain parts of the town which it is producing. If its progress is resisted by the effects of a dense population, and by the peculiar state of the atmosphere which this produces, it must necessarily gain ground in an accelerating ratio as the inhabitants retire before it. Should it go on long as it is now doing, the time cannot be very far distant when the Eternal City shall be no more; when the modern Babylon, the place of her who sitteth on the Seven Hills, shall be what Babylon the great now is, a den for all unclean and creeping things.

That it is actually so spreading, that it every year reaches some part of Rome where it was before unknown, is certain; while, at the same time, there is a peculiarity in the lines on which it marches, and in the mode of its progress, which the inhabitants have not succeeded in explaining. Appearing to enter by the Porta del Popolo, it reaches to a certain distance along the Corso, the banks of the Tiber, and the west side of the Pincio. Here it creeps along the base of this elevation by the church of the Trinità de Monti, and thus round the foot of the Quirinal and Viminal Hills to the church of Santa Maria Maggiore. In its further progress, it reaches the church of San Pietro in Vincoli, diverging towards the Campo Vaccino, and proceeding onwards to the eastward of the Colosseum. On the east side of the city, it is also entering by the quarter of the Porta Maggiore and that of San Giovanni; occupying, to a very severe degree, the district of St John Lateran, and holding its course over the Cœlian hill towards the church of St Gregory, where it spreads to the southward of the Palatine, towards the ancient seat of the great Velabrum and the river. Thus we see that its chief source seems to lie to the northward and eastward; or rather, that it is by means of the peculiar property of these winds, that the miasma is conducted. But the political vitality of Rome is far from exhausted; it possesses an elastic force which may long resist destruction. Should that, however, be materially impaired,—should it diminish in a ratio similar to that in which the malaria increases,—it will be in vain that the name of Eternal has been conferred on it; and Rome, the mistress of the world, will at length be blotted out from her place among the nations.

ART. X. *Draft of an Act for the better Establishment and Regulation of the Free Grammar School of Sir Andrew Judd, in the Town of Tonbridge, in the County of Kent, and for disposing of the Revenues thereof; with Preliminary Observations and Appendix: Addressed to the County of Kent.* By C. R. PRINSEP, M. A. London. Ridgway, 1822.

OUR readers will recollect that, nearly three years ago, we directed their attention to the results of the Inquiry which the Commissioners under Mr Brougham's Act had instituted into the affairs of Tonbridge School. It then appeared very manifest, for the reasons which we stated from the Report, that the Skinners' Company had, for a series of years, appropriated to other uses a large revenue, belonging, of right, to the school: but this position was contested, and the discussion was carried on in the Court of Chancery. Early in 1820, the Vice-Chancellor made a decree against the Company; an appeal was prosecuted to the Lord Chancellor; and, after the fullest hearing, every step of which only threw a stronger light upon the fallacy of the arguments maintained by the Company, the decree was affirmed by his Lordship last Michaelmas term. The result is, that the charity is found to be possessed of between four and five thousand pounds a year of present revenue, certain to be greatly increased upon the falling in of building leases, from which it chiefly arises; and also arrears of post rents, amounting at the least to nearly twenty thousand pounds. The practical question, therefore, which suggests itself upon this case, and to which Mr Prinsep directs his view, is, How this fund shall be applied?

One thing is quite clear—and it is perhaps the only point which will admit of no dispute—the funds have so far outgrown their original destination, that *they can no longer be applied as the founder intended.* The master and usher of the school indeed filed a Bill, the prayer of which was, that the whole revenues of the endowment should be applied to their support, and the repair of the buildings! in other words, that one of them should have a sinecure of three thousand a year, and the other a place of one thousand, with almost as little work as he chose to do. But this proposal, Mr Prinsep observes, was 'too preposterous to be entertained for a moment.' Let us here pause to remark, that, absurd as the notion appears to be, it proceeds upon the very same principles which are so pertinaciously clung to by all the defenders of the notorious abuses in grammar school endowments. The vast increase of the revenues,

in this instance, makes the absurdity appear more glaring; but, in principle, the thing is the same, whether three hundred or three thousand a year are received, either for doing nothing, or for doing far less than the founder intended. The case of all those endowments is simply this. At a time when Latin was necessary for persons of a rank inferior to those who now learn it, pious persons endowed schools for teaching it; thus directing the revenues to be given in consideration of that work being performed. Now, the revenues exist, and are in every instance greatly increased; but the work is not required, because parents who wish to have their children taught Latin, do not desire to have it taught for nothing. There is, therefore, in many cases a total, and in the others a partial, failure of the consideration for which the fund was given. But the enemies of all reformation, the fast friends of abuse, contend that no change whatever can be made in those endowments, because the founders expressly directed Latin to be taught gratuitously, and nothing else. The argument therefore is, that we must adhere to the letter, in order to counteract the spirit; for whatever the intention of the founders may have been, it is very clear what it was not; *it certainly was not to create sinecures*; to give the revenues for nothing at all. Had those pious persons been now living, with the power of changing the original destination of the funds, there may be some doubt what new objects their bounty would have selected, when the first objects no longer existed; but there can be no doubt whatever that they would have selected any objects in preference to the present claimants, the schoolmasters themselves.

To comply with the request of the Tonbridge Master and Usher, 'would simply have been (our author says) to pamper the indolence of a couple of fat sinecurists, as in the noted case of the Pocklington School in Yorkshire.' The same observation is applicable, in different degrees, to all the grammar schools which are founded in parts of the country where a demand for classical learning no longer exists; and where the masters, to comply with the letter of the foundation, offer (as they may very safely) to teach Greek, Latin, and sometimes Hebrew, for nothing, but charge soundly for reading, writing, and accounts, as to which alone there is any demand for their instruction; receiving considerable salaries for giving little or nothing of what the funds were originally intended to purchase, and occupying premises which they devote to the accommodation of boarders. Many of those seminaries are excellent establishments of classical education; and the complete departure from the founders' intentions, is more than redeemed by the advantages resulting from the change; but in many there is

nothing remarkable beside the abuse—nothing to compensate any more than to sanction the deviation;—while, in all of them, care should be taken to secure some useful gratuitous instruction for the classes which were the objects of the endowment, according to the spirit of the foundation; and in none of them is it possible to maintain the *present* practice, upon the ground so injudiciously taken, of strict adherence to the letter of the foundation. Nothing, indeed, can be more preposterous than the line of argument adopted. The revenues are received for doing nothing (we put a very ordinary case); and if you complain that this is the greatest possible deviation from the founder's intention, the answer is, that no children come to be taught Latin; and consequently the change of circumstances renders that greatest possible deviation *necessary*. But then, if you suggest that reading and cyphering might be taught with some part at least of the revenue, the reply immediately is—‘Not for the world—because the founder only speaks of grammar, and there must be no departure from his declared will.’

The short question which arises in the case of the Tonbridge school is, How the surplus revenue shall be applied? After paying every expense hitherto incurred by defraying the taxes and repairs of the school premises, and providing for the salaries of the masters, and for the exhibitions at the University, a revenue of more than four thousand a year, and an accumulation of twenty thousand pounds of arrears remains to be disposed of. Mr Prinsep looks to the will of the founder; and finding a grammar school to be the object of his bounty, he is for appropriating the augmented funds to support a large school, with fellowships and exhibitions on an extended scale at the Universities. But is there, let us calmly ask, any reason for this deference to the *supposed* will of the founder? He intended to establish a school upon a certain scale, and endowed it accordingly. When we speak of four thousand a year as the revenue unappropriated, we assume that above five hundred a year is left to the school in its present state; an income far more than sufficient to defray now every expense that the founder intended to provide for. He meant to teach gratuitously all the children in Tonbridge and the neighbourhood; and, supposing the demand for grammar learning to be as great now as it was then, this revenue of five or six hundred a year would amply suffice to afford such instruction, and maintain the exhibitions annexed to the school. What the founder's intentions would have been, had he been called upon to dispose of a revenue nine or ten times as great, no man can pretend to conjecture. The surplus is, in the strictest sense of the word, unappropriated; and we have no

more right to presume that the founder would have destined it to fellowships, than that he would have endowed an almshouse, or founded 'some other school in some other county. Indeed it seems more reasonable to imagine, that he would have established other schools of exactly the same kind in other counties, than that he would have established a seminary on a different scale, with an appendage of university dignitaries, in the same county. Besides, when the intention of the founder is so much relied upon, those who treat with extreme contempt, but not greater than it deserves, the claims of the masters to the whole surplus, should bear in mind that the original letters-patent obtained by him from Edward VI. directed, that 'all the issues, rents and revenues, of all the lands, tenements and possessions, to be given and assigned towards the support of the said school from time to time, should be converted to the support of the master and usher of the said school for the time being, and to the reparation of the said lands and tenements, and not otherwise, nor to any other uses and intents.' It seems plain, therefore, that the Legislature is left to such a disposal of the surplus as seems most beneficial to the general promotion of education, and is in nowise to be fettered by any regard to the presumed intentions of the founder. Mr Prinsep, indeed, very candidly admits, that his plan is a 'complete innovation' upon the founder's will; and that part of it is in 'direct contradiction to his declared intention.'

He proposes that the school should be enlarged, so as to receive one hundred free scholars, who should be taught all the branches of education most essential to the training of youth; not merely in languages, but in science. These are to be on the foundation, and to be provided with education and lodging only, paying for their board and clothing; and messing together as in the Universities. Supernumeraries are also to be allowed, who must pay for their instruction, and lodge out of the school. From the establishment are to be sent sixteen exhibitioners to the two Universities, with stipends of fifty pounds a year; and there are out of these to be chosen, from time to time, as vacancies occur, eight fellows, with one hundred a year each. A revenue of four thousand a year being thus disposed of, two hundred a year are to be allowed for maintaining free schools for teaching reading, writing, and accounts. Into the minuter details of the plan, we need not enter. Admitting our author's principles, these are unobjectionable. Indeed they seem to be contrived with great skill and consistency; nor do we perceive how they could be materially improved. Those who are for setting up a new great school, on the plan of Eton and Westminster, in the county of Kent, will do well to

abide by Mr Prinsep's plan, with one or two obvious amendments, which we need not stop to specify.

We are by no means inclined to deny, that there are powerful inducements to make this disposition of the funds. It seems hardly possible to give too ample encouragement to liberal education; and perhaps the advantages which result from an overabundant supply of classical scholars, especially when scientific acquirements are combined with erudition, more than counterbalance the admitted evils of enticing by extraordinary rewards, a larger portion of the community than would naturally resort to the clerical and literary life. Much may also be urged in favour of extending our great seminaries of refined education, when the population of the country has increased so prodigiously; indeed, an enlargement of the publick schools seems essentially necessary, either by adding to their number, or augmenting those already established. It will not, therefore, be any misapplication of the Tonbridge revenue, in our estimation, if the whole shall be applied in founding a great publick school there, with suitable University privileges. But as so important a measure should not be adopted without a full consideration of the other side of the question, we are desirous to suggest the propriety of regarding the claims of the poor to a share at least out of this ample fund.

It appears, from the late population returns and the Education Digest, that the county of Kent has, for educating 426,000 inhabitants, endowed schools which teach about 7,500, and unendowed day-schools which teach about 21,600 children. So that, upon the most moderate computation, the means are wanting for above 130,000 inhabitants, or about one third of that populous and important county. The surplus revenue of Tonbridge School, with the accumulated fund, would plant and endow one hundred schools, capable of conveying instruction to five or six thousand children, or at once supplying one half of the present deficiency of education for that whole county. But suppose a middle course were taken, and an ample portion of the revenue devoted to the establishment of a great school, two thousand a year well applied, and ten thousand pounds for building and purchasing school-rooms, would be a most important advantage to the poorer classes, and leave enough to endow a most useful seminary, with a due portion of University emoluments. It appears to us wholly impossible, in the present day, to appropriate this fund without some provision for the humbler and more essential branches of education; and we trust that no attempt will be made to carry such a measure, without allowing the fullest opportunities for discussing all the claims upon the fund.

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